



# City of Lawrence

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CITY COMMISSION  
  
MAYOR  
MICHAEL H. DEVER  
  
COMMISSIONERS  
SUE HACK  
ROBERT CHESTNUT  
DENNIS "BOOG" HIGHBERGER  
MIKE AMYX

December 2, 2008

The Board of Commissioners of the City of Lawrence met in regular session at 6:35 p.m., in the City Commission Chambers in City Hall with Mayor Dever presiding and members Amyx, Chestnut, Hack, and Highberger present.

## RECOGNITION/PROCLAMATION/PRESENTATION:

With Commission approval Mayor Dever recognized the 2008 Excellence in Commerce winners.

## CONSENT AGENDA

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve the City Commission meeting minutes of November 11, 2008. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve the Planning Commission meeting minutes of October 20-22, 2008; and the Mental Health Board meeting minutes of October 28, 2008. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve claims to 260 vendors in the amount of \$510,323.73. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve the Drinking Establishment License for The Bottleneck, 737 New Hampshire; and The Phoggy Dog, 2228 Iowa. Motion carried unanimously.

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to set bid opening date of December 16, 2008 for Chemical Feed Pumps and associated equipment



and Chemical Storage Tanks and associated equipment for the Kaw WTP Disinfection Conversion Project. Motion carried unanimously. (1)

The City Commission reviewed the bids for construction contract for the Kaw Water Treatment Plant Disinfection Conversion for the Utilities Department. The bids were:

BIDDER	BID AMOUNT
Midland Contractors	\$237,200
Foley Company	\$291,300
Engineer's Estimate	\$290,000

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to award the bid to Midland Contractors, in the amount of \$237,200. Motion carried unanimously. (2)

The City Commission reviewed the bids for water treatment chemicals for 2009 for the Utilities Department. The bids were:

PRODUCT	VENDOR	BID
QUICK LIME – BULK, PEBBLES	Mississippi Lime Company	\$121.00/ ton*
	US Lime Company	126.41/ ton
QUICK LIME – BULK, POWDER	Mississippi Lime Company	121.00/ ton*
	US Lime Company	126.41/ ton
CHLORINE – 1 TON CYLINDER	DPC Industries	519.40/ ton*
SODIUM HYPOCHLORITE, BULK	DPC Industries	1.175/gal*
	Brentag Mid South	1.40/gal
	Vertex Chemical	1.42/gal
	G.S. Robins	2.25/gal
POWDERED ACTIVATED CARBON – BULK	Cal Pacific Carbon	1,160.00/ton*
	Meadwestvaco Corporation	1,540.00/ton
	Jacobi	1,595.00/ton
	G.S. Robins	2,100.00/ton
POLYMER, KAW PLANT – BULK	G.S. Robins	1,220.00/ton*
POLYMER, CLINTON PLANT – BULK	G.S. Robins	1,110.00/ton*
CARBON DIOXIDE - BULK	Poet	88.00/ton*
	EPCO	100.00/ton
SODIUM HEXAMETAPHOSPHATE – 50# BAGS	Summit Chemical	3,060.00/ton*
	Carus Chemical Co.	3,480.00/ton
	G.S. Robins	3,600.00/ton
	Univar	4,060.00/ton
	Brentag Mid South	4,400.00/ton
	Shannon Chemical Corp.	5,540.00/ton

SODIUM SILICOFLUORIDE – 50# BAGS	Brentag Mid South	812.00/ton*
	GS Robins	858.00/ton
	Thatcher Co.	860.00/ton
	Harcros Chemicals	990.00/ton
	Univar	1,040.00/ton
SODA ASH – BULK	Thatcher Co.	332.30/ ton*
	Univar	401.05/ton
	Harcros Chemicals	405.00/ton
	G.S. Robins	621.00/ton
AQUA AMMONIA – BULK	Harcros Chemicals	355.00/ ton*
	G.S. Robins	460.00/ton
	Univar	628.08/ton
PHOSPHATE SOLUTION	G.S. Robins	2,121.00/ton*
	Shannon Chemical	2,940.00/ton
ALUMINUM SULFATE – BULK	G.S. Robins	524.00/ ton*
	Univar	525.00/ton
	General Chemical	575.00/ton
QUICK LIME – PEBBLES, 96%	Mississippi Lime Company	121.00/ ton*
	US Lime Company	126.41/ ton
SODIUM HYPOCHLORITE – BULK	DPC Industries	1.175/gal*
	Brentag Mid South	1.40/gal
	Vertex Chemical	1.42/gal
	G.S. Robins	2.25/gal
SODIUM BISULFITE – BULK	Brentag Mid South	2.61/gal*
	G.S. Robins & Co.	2.62/gal
FERRIC CHLORIDE – BULK	Kemira Water Solutions, Inc	1.50/gal*
	PVS Technologies	1.83/gal
POTASSIUM PERMANGANATE	G.S. Robins	2.73/lb*
	Brentag Mid South	3.02/lb
	Univar	3.13/lb
	Harcros Chemicals	3.57/lb
POLYMER, TOTES	Polydyne, Inc.	1.14/lb*
	CIBA Specialty	1.32/lb
FERROUS CHLORIDE, 1025 N. MN	Kemira Water Solutions	1.25/gal*
FERROUS CHLORIDE, 3613 Brush Creek	Kemira Water Solutions	1.25/gal*
FERROUS CHLORIDE, 720 Grant	Kemira Water Solutions	1.25/gal*

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve the recommended bids as marked above (\*). Motion carried unanimously. (3)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to award contract for supplier of non-alcoholic beverages for both fountain operations and vending machines at all Lawrence Parks and Recreation Department locations for a five year period to Pepsi-Cola General Bottlers, Inc. because Seven-Up Bottlers Group and Coca-Cola Bottling Co. of Mid America did not meet specifications. Motion carried unanimously. (4)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve purchase from Eagle Software Inc. of a Dell EqualLogic storage area network for in-car digital video storage for \$48,150 (\$16,000 City funds and \$32,150 grand funding); pursuant to September 2, 2008 City Commission authorization for police department in-car digital video system. Motion carried unanimously. (5)

Ordinance No. 8347, levying transit sales taxes, was read a second time. As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (6)

Ordinance No. 8348, levying infrastructure sales tax, was read a second time. As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (7)

Ordinance No. 8349, establishing a Sales Tax Audit Committee, was read a second time. As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (8)

Ordinance No. 8352, establishing the maximum assessments for improvements at 6<sup>th</sup> Street and Wakarusa Drive, was read a second time. As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (9)

Ordinance No. 8351, establishing the maximum assessments for improvements at Stoneridge Drive and Kelly Drive, was read a second time. As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to adopt the ordinance. Aye: Amyx, Dever, Chestnut, Hack, and Highberger. Nay: None. Motion carried unanimously. (10)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to concur with the Planning Commission's recommendations to adopt the findings of fact and approve a Special Use Permit, (SUP-09-09-08), for Westside Plaza for addition of a healthcare office (oral surgery), located at 4811 Bob Billings Parkway; and adopt on first reading Ordinance No. 8356, authorizing the Special Use Permit for Westside Plaza located at 4811 Bob Billings Parkway, subject to the following conditions:

1. Execution of a Site Plan Performance Agreement; and,
2. Publication of an ordinance per Section 20-1306(j)

Motion carried unanimously. (11)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve Comprehensive Plan (CPA-2008-3), amending Chapter 6-Commercial Land Use – Inner Neighborhood Commercial Uses to correct inconsistencies between the description in the comprehensive plan and the Land Development Code including location and an update as to where existing neighborhood commercial centers are located and adopt on first reading, joint City Ordinance No. 8357/County Resolution No. \_\_\_\_\_, amending Chapter 6 – Commercial Land Use – Inner Neighborhood Commercial Centers for Comprehensive Plan, CPA-2008-3. Motion carried unanimously. (12)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve Site Plan (SP-07-54-08), for outdoor dining at Teapouro, located at 712 Massachusetts Street and adopt on first reading, Ordinance No. 8353, allowing the possession and consumption of alcoholic beverages on the sidewalk dining and hospitality portion of the City right-of-way. Motion carried unanimously. (13)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to approve Site Plan (SP-08-76-08), for outdoor dining at Global Café, located at 820 Massachusetts Street and approve sidewalk dining and hospitality license. Motion carried unanimously. (14)

As part of the consent agenda, it was moved by Chestnut, seconded by Amyx, to authorize staff to negotiate an Engineering Services Agreement with Bartlett & West for Design and Construction Phase Engineering Services for the benefit district projects for sanitary sewer and water improvements to Bauer Brook Estates. Motion carried unanimously. (15)

Commissioner Highberger requested first reading of Ordinance 8359 be pulled from the consent agenda for a separate vote. It was then moved by Hack, seconded by Chestnut, to adopt on first reading Ordinance No. 8359, rezoning (Z-06-07-07) a tract of land 25.97 acres (approximately 31.296 acres with adjacent right-of-way) from PCD-2 (Planned Commercial development) to PCD-[Bauer Farm] with modifications in the restrictions, located at the NE corner, West 6<sup>th</sup> Street and Wakarusa Drive. Motion carried 4-1 (Commissioner Highberger voted no.). (16)

#### CITY MANAGER'S REPORT:

During the City Manager's Report, David Corliss said he kept all the members of the City Commission informed about an incident with a Lawrence Police Officer. He was in critical condition in a Kansas City area hospital. He talked with Chief Olin three times today to receive progress reports. Their thoughts and prayers were with him for a speedy recovery and return back to work.

He said they were doing a good job in getting the word out in community meetings on transit planning. One of the open house formats was next week on a Tuesday, but there was also one on Thursday at the library. They were excited to continue the momentum from the sales tax vote and would encourage participation from all members of the community on this planning effort.

He pointed out they have been having discussions with a number of entities and departments about some of the challenges they were going to face with changes in assessed valuation. The library was largely dependent upon property taxes for their operations and that

was going to impact their operations significantly. He said the library director let him know of some studies that were being finalized in regards to some needed repairs at the library structure. They were beginning to analyze that and understand that. There was going to be an active request for City participation in funding that significant maintenance need. They did not know the timing of that as far as when it was necessary, but usually those types of things needed attention sooner rather than later.

He said the November sales tax distributions were included in the report. He believed that it was more than likely that their sales tax would exceed what they had budgeted. He said the accrual of revenue sources meant they waited for the January payment as well to finish out the 2008 books. Hopefully they would continue to get good news and be better than budget for 2008. They were doing a lot of expenditure management as they got the 2008 budget to a close.

He said there was a slight change in the Stoneridge Tank Water Tower raising. It was now planned for Thursday. It would change the skyline in western Lawrence as that tank went to the top. (17)

#### REGULAR AGENDA ITEMS:

##### Consider authorizing staff to submit a new bid for former Farmland Nitrogen facility.

Commissioner Hack said she would abstain from considering this agenda item and left the meeting room during the discussion of this item.

David Corliss, City Manager, introduced the agenda item. He said Bill Ford, attorney, had been their active counselor on this item for some time and put together a background memorandum. They were also fortunate to have a couple of representatives from the Kansas Department of Health and Environment present. He asked them to explain their involvement with the property.

Gary Blackburn, Kansas Department of Health and Environment, said he was the Director of the Bureau of Environmental Remediation. They were the organization that

oversees the cleanup and directed the cleanup and approval. They were the beneficiary and trust for the cleanup.

Rick Dean, Kansas Department of Health and Environment, said he was the Chief of the Remedial Section of KDHE and they had staff that managed these types of projects throughout the State of Kansas.

Corliss said the City submitted a bid to the trust that actually owned the Farmland property with the hope that bid would initiate the auction process so that the property could go to auction and the City's bid would be participatory in that process. That did not occur and the bid was not judged as something that could proceed. A number of things have happened in regards to the property in the past year. Most significantly, the environmental regulators, KDHE, have continued to finalize and solidify what they knew about the property and most importantly what was necessary to remediate the environmental concerns on the property. They had been in several meetings with Rick and Gary and sometimes a roomful of people in regards to understanding that property and what was going to be required on that property. What they knew about the property was significantly more now than what they knew a year ago and from discussions with KDHE and others that have looked at it, they have a better idea of what would be required to clean up the property.

He showed a map of the area that was in one of the documents prepared to show what was necessary on the property. They were generally familiar with the 100 plus acres on the north side of 23<sup>rd</sup> Street/K-10. The white areas on the map were areas that would need significant environmental work and in many cases would not be available for use as far as construction on the property. The orange property was recommended for no further action. If they were to successfully acquire the property, the environmental regulations would not require them to do anything further on the property. The hatched areas were recommended for areas of closure. The yellow areas were recommended for LUR, which meant they would have land use restrictions on the property. For example, it could not be used for residential uses or

anything that would significantly disturb the ground. There were significant portions of the property that could be used for the Commission's purpose for this property, which was an economic center and industrial park to bring jobs and tax base to the community.

He said the next question was if there were sufficient funds needed to proceed with these items. They knew that KDHE was estimating the cost of clean up was in the \$12 million range with a desire to show approximately \$15 million of financial assurance that they had the ability to fund it. That amount was over a period of 30 years. There was money that through the bankruptcy proceedings, Farmland, before it was dissolved as an ongoing entity, was required to place in trust. KDHE had the responsibility that the money was used appropriately at that property. That amount was approximately \$10 million. One of the things they have discussed in executive session about this acquisition was whether or not they were going to leave some of the money with the trust or use some of the money for the cleanup. He thought they had a pretty good idea of where they were with those discussions. The next issue was how much it was going to cost to develop the property. As an analogy, they would look to the East Hills Business Park. East Hills Business Park had been in existence for over 20 years and was not fully built out. The City and County have participated in its infrastructure development. Over time, a number of roads have been phased in. They were proceeding with an upgrade of a sanitary sewer pump station that was behind the AMARR Garage Door Group. They were getting infrastructure out now at this location and were analogous on how it was likely to occur at this property. It was not likely they would develop this all at once. One of the questions that would be asked eventually was if they put infrastructure in on a speculation basis in hopes they would be able to attract tenants or future property owners, or if they wait for that prospective property owner to come forward to acquire the property or work with the City cooperatively to install that infrastructure. They have not had those discussions extensively and thought it would be a mix; they would do some of the infrastructure installation in advance of knowing the particular tenant. It would not be inexpensive to put infrastructure in and they were familiar with

that. The pump station project was a couple million dollars. They have not bid it yet and were still in the design and property acquisition phase. Streets could run \$3 million a mile depending on the issues they might have to deal with. With dealing with some soil issues where there was contamination, there were concerns that might drive the cost up. Access to the industrial park would be a concern at some point as far as signalization. They would have a level of specificity on infrastructure costs at this point and be phased in at this time.

He said one of the physical attributes was they saw this as an area for industrial use. They have had discussions on where to locate industrial uses in the community. He did not think there was too much contention on the industrial uses or employment uses at this location. That was one of the primary attributes.

Commissioner Amyx asked for the City Manager or someone else to explain the auction process.

Corliss said this was not a typical auction where you might show up at an auction location and start bidding up how the prospective purchasers would like to pay for a property. Essentially, it was a reverse auction. The amount of the trust funds would be known at that auction date and the prospective purchasers would be able to say how much money they would be able to leave in the trust for the benefit of the trust and disburse it to any creditors. For example, someone might know that there was \$10 million in the trust now and would leave \$2 million in the trust and take the rest of the money because they knew they would have liabilities. They were not actively buying on a square foot basis or acreage basis the property and not saying they would pay \$10,000 an acre or whatever they were initially starting off. They were saying how much money they would leave with the trust and assume the liabilities. The best term they heard for that type of selling process was a reverse auction.

Commissioner Amyx said he had questions over the last several months as they have talked about this and some of the questions were involved with how much they were going to pay for the ground. He said if he understood it correctly, they were going to take an amount

from the trust or bid an amount they would take from that trust and that they would use that to clean up the land and they would take the land and use the money to do the actual clean up.

Bill Ford, Lathrop & Gage, counsel for the City of Lawrence, said the way it worked was someone had to start the auction process and by doing that, it was what they called a stocking horse. They tried to become the first bidder once, and the trust did not choose to start the auction based on the bid that was submitted. They were hopeful and had some indication that if they were to submit a bid, the auction would be able to get started and there may or may not be other bidders at that point in time.

Corliss said it was not just putting a number down. They have refined the asset purchase agreement, which was a 20 – 30 page contract that had a number of different stipulations as to how much money they were plugging into the amount of the trust fund. Among those stipulations was they would assume the liabilities and also not close until they had concurrence with environmental regulators that they were going to do certain things with them. The environmental regulators were not willing to cap liability, but agreed they would have certain understandings on how much money they would have to show financial assurance on the property and understood what action they would have to take in remediation of that property.

Mayor Dever asked Gary Blackburn to explain KDHE's involvement in the process and his opinion that the City would be a suitable owner or operator of this facility while the remediation went on and subsequent to that, a caretaker to the long term liability.

Blackburn said one of the issues was the financial assurance that KDHE was asking for. One of their concerns was that this property was going for competitive bidding and virtually anyone could bid on the property. If they did not set a high bar as to what their expectations were on the clean up, they could have any number of developers or parties come in, take that trust fund money, and try to walk away from that land and try to cash out the trust fund. Their big concern with the bid was whoever got this put up their money with this so they knew the long term clean up would be done. Their estimates were that it would take 30 years of pumping of

the ground water containment system to see this site cleaned up. It was really hard to say it was going to take 30 years and this many dollars. They have sent out some estimates and looked at what they believed it would cost. The city had a real advantage of this because there was a lot of moving dirt from one place to another type of work that did not require an expensive consultant to do. The City had a lot of people that had that kind of ability. Also, the ground water containment system was basically operating pumps. The water was contained and pumped out and used to irrigate fields. To pay a consultant to do that was obviously more expensive than to have someone who pumped sewage and public water systems already available. They believed all their estimates were based on what the consultants would do it and believed the City was in a position where they could do this work, probably less expensively. They knew the City was going to be here long term and the 30 year commitment was as big of a concern as a developer that was going to want to come in, develop the property and leave.

Mayor Dever said when they talked about the process, this type of clean up could be done in a multitude of ways. The numbers being thrown around could vary and have varied as they found new things. Technology could change and what could be 30 years could be longer or shorter.

Blackburn said one of the things that differs from this site and most other sites they might be involved in was the primary contaminant here was nitrogen fertilizer. There was ammonia as well that posed another concern, but primarily the fertilizer right now was usable. Right now they were pumping the fertilizer, containing it in a tank and paying to have it distributed on fields. They have talked at some point that if done properly, this fertilizer had value and could be used for possibly fertilizing property the City had or making it available for others. There were ways it could be done more efficiently. They recently went out and did some sampling on the facility to reconfirm and answer some questions they have all asked if there were other things they were not aware of. They went into the areas where they had the most concerns, installed monitoring points, and basically for the most part confirmed what they

already knew was there and did not come up with any big surprises. They were quite pleased with that and filled some gaps. They felt like the estimates and analogies of what needed to be done were pretty accurate. There were a number of areas and the white area in the top corner of the map was an area with a lot of soil contamination. At this point in time, they did not believe it was useful, but at some point in the future if this contaminated soil was used in a building project or any number of things, it provided nutrients for growing grass or whatever they were using. There were some possible innovative things they could do to make some of the properties more usable and possibly spend less money than estimated and possibly shorten the term of the clean up.

Commissioner Amyx asked Blackburn if there were any other projects in the state with these kind of nitrogen contaminants in the ground and the estimates put forth on the remediation plan were found to be pretty much across the board in what they cost today to do clean up.

Blackburn said this was probably the only site they had with this magnitude of fertilizer and nitrate contamination. They had a lot of smaller agricultural facilities where there was nitrate contaminated wells. Most of those facilities were working out an arrangement with a neighbor and pumping the nitrate contamination onto a field and spending very little money on the clean up. This actual clean up, the cost estimates they had were what Shaw had spent over the past several years managing the clean up and projecting it out over a 30 year period. They thought their estimates were pretty good for having Shaw do the work. The possibility of being able to do some of the work yourself might change some of the cost estimates. They felt comfortable with these estimates. He did not know of any other sites of this magnitude.

Dean said they did clean up all over the state and a lot were the smaller facilities. They have soil contamination with nitrate and ground water contamination with nitrate and they end up excavating a majority of that soil and applying it to fields. The water they could irrigate with it and there were various uses. They did not have anything of this magnitude. This was an actual

fertilizer facility, 400 plus acres. Most of the facilities they work on across the state were between 3 – 15 acres as far as elevators. He said back in July when they started to put together costs, diesel and gasoline were very high. Now diesel and gasoline were coming down. The numbers were going to vary and the key was to be in the ballpark. They calculated the cost and Shaw, the environmental consultant for the trust, have calculated the cost and they were both very close.

Ford said one of the things the City was planning to do before it made a decision on the dollar value it would be putting into its bid was having an independent opinion from an environmental consultant as to whether those cost figures were good or not and how strong the numbers were.

Commissioner Amyx said it was good they were doing that. He said from the City's side to make up a good bid was to understand that KDHE's estimates were as close as they could get today to proceed with this project.

Mayor Dever called for public comment.

There was no public comment.

Commissioner Amyx asked Corliss if the City proceeded and made a decision to make a bid on this property and were named the stocking horse bid, what would happen at that point and could other companies and other municipalities bid.

Corliss said it was his understanding that the bankruptcy court would set an auction date and their bid was exposed as the stocking horse bid and others were able to start the auction process and they were able to participate as well.

Commissioner Amyx asked why it is important for the City to be the stocking horse bid.

Corliss said for one reason, they knew the property would proceed to auction, which was what they had been trying to get going for some time and it had not occurred. It started that process. It could give them essentially two bites to the apple.

Ford said it also set the auction process for other bids. The rest of the bids would happen under that same sort of scheme and the different elements of the bids would have to be the same. It would be bid along whatever line the City set up as the methodology. Someone could not come in and say they wanted to buy half the property. It set up the auction process and everyone else would have to follow in line in that same way, generally.

Mayor Dever asked Ford if KDHE has any influence on the trust and selecting a successful bidder.

Ford said KDHE had to be neutral on the bidder as long as they met the qualifications, but had a lot of influence on what the ultimate qualifications were. They wanted someone who was financially able to take care of a clean up. He knew that was a significant concern that KDHE had on private entities that have expressed interest.

Vice Mayor Chestnut thanked staff from KDHE. He said they started this process a while ago and have gone through a maturation of scenarios. He said he was comfortable moving forward for a couple of reasons. He was not so concerned about a private entity. If they had to put up a \$15 million LOC or some other financial instrument there, they were making it prohibitive for them to walk away without that investment. He still thought that they were in a unique position to take this on. He assumed the \$12 million was that there was a lengthy detail of what Shaw put together as far as that was concerned. Another thing invested in that \$12 million was for them to cap those pods, which was not the plan they would pursue in the long term. That was a healthy sum that was near term. When they started looking at what they would be able to hold onto financially by getting money from trust over a 30 year period, he thought it was reasonable to assume that the probabilities were the trust would have the proper funding to do the job. He said locality, even though there was infrastructure investment and it would be necessary, it would be needed for industrial ground to pursue. In some ways it would be less for its contiguous locations in the City and sat on K-10 and where they needed it to be. They would have to decide what would be needed to be left in the trust, but was comfortable

with this situation realizing that there were risks involved. In any economic situation, whether it was in investment or infrastructure, tax abatement or whatever instrument they chose to use, there was always risk involved. This was a manageable risk and one they were in a position to manage.

Commissioner Highberger said he had been involved in this process for six years now and it was time to move forward. He said he did not have much to add to what Vice Mayor Chestnut said but it was his understanding that Shaw and the trustee did not have a big incentive to minimize their costs. He was confident that the estimates, if anything, were on the high side. He said with independent analysis, he would be reassured they would have full authority to move forward. This needed to be the focus of the future job creation. He thought they should move forward and place another bid.

Commissioner Amyx said the big thing for him was the opportunity to turn brown fields into something positive. He said he had reservations about this since the beginning of the project. The fact that so many cities throughout the country have taken green field development and turned it into success stories, and that was something that was important here. He said as someone on the City Commission back in the 1980s and the County Commission on the latter part of the 1990s and heard a lot about this ground way back when, whether it be from people who worked at the site to people who lived to the west of the site and had concerns about different smokes and kinds of things that were coming out of there, he had his turn to get calls about it. He thought this was an opportunity for the community to do something with a piece of property that obviously when they talked about gateways, K-10 was a gateway and as they went past the Farmland site now, it was something a lot of them wanted to see change and put into production. There was an opportunity here. He had not heard a lot of concerns about the proximity to other locations. He thought here were a lot of people who wanted to see the area cleaned up. There was an opportunity for partnerships in the future, both public and private. Those would be necessary to not only be able to put in infrastructure, but be able to market this

property. They needed to make sure they understood the limits on the resources they had to be able to do this project, but there was a possibility both through the private and public sector to be able to do the project. These opportunities did not come around often and the fact that they would be able to pick up 460 plus acres for the cost of the clean up he could not remember a time this happened to them. The work KDHE had done to put together solid figures for everything that he had been able to look at through the report. The information they would ask for before the bid was submitted to make sure that those numbers were in line no matter the future they would be, he thought was an important step and they had done a good job in making sure that stones were not left covered and had a lot of understanding of what was in the ground. He thought it was a good project for the community and was an area where job creation could happen.

Mayor Dever said it was also important to note that even if the city was not the winning bidder, if they could get the project moving forward and future for the site, it was an opportunity they could have for the City to provide some momentum to get the clean up going. He was comfortable with the data prepared by the state and after further review by a third party, he would feel comfortable with the financial numbers. He was in favor of trying to move forward to submit a bid.

Moved by Amyx, seconded by Chestnut, to authorize staff to submit a new bid for the former Farmland Nitrogen facility after providing the Commission with information from third party cost estimates. Motion carried 4-0-1 (Commissioner Hack abstained). (18)

Review Items related to keeping of live fowl and domesticated hedgehogs.

Commissioner Hack returned to the meeting room.

Cynthia Boecker, Assistant City Manager, presented the staff report. She said over the past several months, the City had received two separate requests related to the keeping of animals within the City limits. They brought these requests forward to receive direction from the

City Commission. Earlier this year, the Lawrence Humane Society raised concern regarding the keeping of live fowl. In response to this concern as well as calls from citizens, staff reviewed existing regulations regarding the keeping of fowl. She said Scott Miller, staff attorney, prepared a memo summarizing City Code relating to animal control ordinances as well as the development code. The code was somewhat vague and keeping animals was allowed within the RS-40 zoning district, provided the lot size was at least 5 acres and the animals were kept more than 100 feet from any adjoining lot line and 150 feet from the R District. There was a limit of one head of livestock per acre of lot size. Due to the requirements, it could be argued that it was currently illegal to keep domestic fowl on residential property within the City limits and in the majority of the city. Because the zoning ordinances are not enforceable by animal control, any such complaint would have to be monitored and enforced by the Planning and Development Services staff. At the time the review was underway and in response to the initial request from the Humane Society, a draft ordinance clarifying existing language and banning the keeping of live fowl was developed and posted on the future agenda items memorandum. In response to that posting, the City received calls from a group of residents who preferred to be able to house fowl on their property. Earlier this year, staff as well as Commissioner Highberger, met with that group and they expressed their desire to, within reason and some stipulations, maintain fowl on their residential property. As part of the review, staff also looked at existing regulations in other communities and most communities allowed the keeping of fowl; however restrictions do apply particular relating to the number of animals, the size of lot and distance to adjacent properties.

While staff was reviewing the issue of live fowl, they received a second request about the keeping of domesticated hedgehogs as pets. Hedgehogs were currently not allowed under City ordinance. They contacted the Lawrence Humane Society in regards to this request and any public health concerns that might exist. It was indicated by the Humane Society staff that the only substantial concern of keeping hedgehogs would be if the animals were released and then reproduce. That might pose a threat to smaller rodent populations.

She said as indicated in the materials, what they were looking for this evening from the City Commission was direction relating to the keeping of fowl, whether that should be allowed within the City limits and if so, should there be restrictions and if any. Finally, if it would be appropriate for the keeping of domestic hedgehogs as pets within the City. Based on City Commission direction, ordinances would then be drafted for future commission review.

Mayor Dever asked Scott Miller to explain the exceptions to the law.

Scott Miller, staff attorney, said in Section 3-104 of the City Code, it contained an exception that seemed to permit people who were legally owning domesticated fowl doing that 75 feet away from any other dwelling to continue doing that after December 30, 1992. The unfortunate thing was that it was an exception to a rule that did not exist. That particular ordinance exempted from the regulations birds, and obviously chickens were birds. Birds were allowed to be kept as pets or under Animal Control Code. The exception was to a rule that did not exist. Now with that in mind, the planning and zoning ordinances that Boecker referred to, would prohibit the keeping of chickens right now in much of the City, but not the entire City. There were two zoning districts where it would be allowed. Now they had patchwork regulation and under the Animal Control Code birds were allowed but livestock were not under the Planning and Zoning Code. Although the legislative intent at one point may have been to make certain fowl not kept within the City, it was imperfectly executed and as a result, there was no law right now, in his opinion, against keeping fowl in the City provided it was within the zoning districts of where it was allowed.

Mayor Dever called for public comment.

Midge Grinstead, Director of the Lawrence Humane Society, said this all started because she and animal control were having a disagreement of whether chickens were allowed or not. When she worked with animal rights or animal issues, fowl were livestock, which included chickens, geese, ducks, peacocks, and turkeys. Birds were exotics such as parakeets and those types of animals that you would see in a pet store. When they looked at the law it

was very vague. She called the Kansas Department of Health and Environment. The Humane Society had no opinion as to whether chickens should be allowed or not and they would hear a lot of people talk tonight who were very good at keeping animals and were not the problem. She would like to address questions to the City Commission and things they needed to think about before they allowed fowl in the City.

She said the first thing they needed to think about was how many would be allowed on the property and how big the property had to be to keep that number of animals. Another was what type of fowl, chickens, guineas, peacocks, ducks, geese and all sorts of fowl. The City Commission needed to be specific because they were going to have to have a noise ordinance. Guineas and peacocks are really loud; geese and ducks can be as well. They would have complaints about that and needed to think about the noise ordinance issue with fowl. Another question would be how the animals would be kept and if the City would require coops. She said in Seattle they had coop requirements and clean up requirements. There were also veterinary requirements for those animals that were there. She asked if a veterinary requirement would be needed for parasite control. Currently if they had a cat or dog population in the City that was causing a problem, it was either under the nuisance ordinance or under the cruelty to animal statute. They could go in and make the owner clean up their yard. They would have to have something regulating that as well. She asked if a chicken was off of its property would be considered at large and if it was at large, would the person be fined. In the past she allowed them to come into the shelter but was not allowed under the Kansas Pet Animal Act to have fowl in the shelter so they would no longer allow them to be in the shelter to be picked up. She asked what would happen if a dog or cat killed a fowl. She said it was an innate behavior but under the Dangerous Dog Law, they could be considered a dangerous animal. She said there were a lot of things involved and hoped everyone would think of them all.

She said she had someone call and complain that someone was beheading chickens and let them flop around the yard and the caller's children were mortified. She said food

consumption and how they were going to allow that or even if it was an issue was going to come up as well. She said the Humane Shelter was not pro or con and there were a lot of good people who do a lot of good things with their animals. She said they needed to look at all the issues involved.

Brian Azcona, Lawrence, said he could not say if he made a good chicken owner or not, because he did not own any chickens, but would like to. He believed it was his right to land that would allow him to the most basic right he could think of; to produce his own food. With the creation of the nation the Founding Fathers envisioned a nation of civically engaged independent citizens. Ownership of land was the fulcrum of that envision because it would provide the material basis for independence; the freedom to grow the food they needed to survive. In the 19<sup>th</sup> Century the federal government started to transfer the ownership of public domain to private citizens in the Homestead Act. The State of Kansas was part of this public domain. The federal government did not hand over the land as a free gift; the federal government asked that they turn it into farms and grow food. He asked the City Commission for the right to use their soil for food. This restriction the City Commission was considering was a huge taking and hoped they realized that. He understood the government had the authority to regulate the use of code for property and public welfare, but there was no reasonable threat to public welfare here. He wanted to use his land to build a henhouse, not a whorehouse.

Bob Gent, said he was a chicken keeper, and he had three hens already. He said he did not know if he was the best chicken keeper in the world but knew his chickens posed very little threat. He went around and questioned his neighbors as to how they felt about it. He said one neighbor said she thought chickens were great and she loved the sound. He said no one in his group was interested in getting an animal that would cause a threat or discomfort in their neighbors. He said the regulations now covered dogs and cats. They also covered the basic health and safety in public impact nature of those animals to the extent that those regulations could be problems to cover the animals, such as domestic fowl, it might be the simplest thing to

say they had to keep them clean, humanely, could not overcrowd them or disturb their neighbors. Those regulations would be very well placed. As it was right now, someone could have a dog to him next door that sat and barked all night and it was his problem to figure out how to deal with it. He said chickens, aside from roosters, sleep at night. They were not going to hear anything from them until the morning. He said he was in favor of minimal regulation to the extent that would be necessary to make chickens a minimal impact to the community.

Beth Ann Mansur, Lawrence, said she also owned chickens. Since urban chickens were on the rise in cities across the country and city governments were facing similar concerns as to balancing chickens and public safety, she wanted to share some findings she found on two groups that were keeping an eye on this issue among many more pressing issues. Both groups did not feel it was a health threat to the general public and some argued that chickens were no more likely to carry a disease than any other common city birds like pigeons. She said the World Watch Institute was an independent research organization recognized by leaders around the world for its fact based analysis of critical global issues. Its mission was to generate and promote insights and ideas that empower decision makers to make an ecological sustainable society that met human needs. She said the Independent Pew Commission on Industrial Farm Animal Production was formed to conduct a comprehensive fact based and balanced examination of key aspects of the farm animal industry. Commissioners represented diverse backgrounds and perspectives and came from the fields of veterinarian medicine, agriculture, public health, business government, and animal welfare. They spent 2 ½ years in consultation with other national experts and conducted an assessment of the industry's impact on the animal industry on the public's health, environment, farm communities and the animal's health and well being. They conducted public meetings around the country and produced specialized technical reports. She said what they came up with was they issued a comprehensive report of its findings, including practical recommendations that have been made available to policy makers, industry stakeholders and the general public. She said they were well recognized

organizations. She said industrial chickens were kept in very crowded conditions and because they had stressed out birds in filthy conditions, they got bird flu. This was completely different than keeping a small flock of family pets in your backyard. She said there was no risk or danger with flu with backyard chickens.

Andrea Repinsky, Lawrence, said she has had two chickens and two ducks. A group of duck or chicken owners have met the Coalition of Lawrence Urban Chicken Keepers (CLUCK). They have met with the Humane Society and with City staff. She thought that it would be possible with no problem to come up with a solution to the vagueness of the ordinances that could protect their ability to keep chickens and ducks and others as well as protect the interest of the community and welfare of the birds. There should be ways to do so that were pretty simple. For example, if they restricted or had a minimum area allotted in one's yard per bird, they could allow anyone to have a small number of birds and make sure there was enough space to maintain the health of the flock. She said the idea might be new to many to have a backyard flock and many of the chicken and duck keepers would be happy to answer questions and follow up with City staff and the Humane Society.

Marguerite Ermeling, said as a practitioner in town and seeing a huge number of birds, they saw chickens and ducks that were brought in for regular and routine care as well as damage control. She thought it was a responsible group, or at least the people she had been involved with, and there might be some coordinated restrictions that might make sense. People who were raising chickens, those animals were kind of green in nature. They were good to have in the garden. She also said there were some requirements that were probably needed. There were some requirements that would come into play that would make sense, which included noise ordinances and things like that. She said it was a good idea to have chickens and understood the Humane Society. She said she would like to help both parties.

Judson King said he wanted to talk about domesticated hedgehogs. He thanked the City Commission and Mayor for taking the time to consider this. He said for Christmas he

wanted a hedgehog but found out they were not allowed in the City of Lawrence. It made him mad because they were his favorite animal. He said one reason he thought why they made hedgehogs illegal because people thought if they escaped from their owners and have offspring that could bring a hazard to the area. He said that was not true. He said they are used to a climate between 70 degrees and 90 degrees and could not survive a Kansas winter. He said if anyone was concerned about hedgehog diseases, hedgehogs may be exposed to diseases but do not carry them. They were known to have cancer and a condition known as Robbery Hedgehog Syndrome, which was like Parkinson's disease for humans. It was not contagious. He asked the City Commission to keep in mind that hedgehogs were insectivores and normally eat bugs and worms. They have been known to eat bird eggs and snakes. In captivity the hedgehogs ate cat food, scrambled eggs and worms. Hedgehogs bred in captivity usually live from 3 – 7 years, but he had heard cases of where they lived as long as 10 years. He said in the article he handed out to the City Commission, David Corliss said he did not know why they were not included as legal animals except they might not have been popular enough. He respectfully asked the City Commission to allow people to keep hedgehogs within the City limits of Lawrence.

Anna Kern said she was a graduate student at KU and this summer she put in a garden. They grew food, canned it and decided to raise some chickens so their kids could see the relationship between the food on their plate and what growing food was like. She said it was a success. She said it would be a terrible shame if the practice was prohibited in the City of Lawrence and people could not do this. She thought that safe and smart regulations that could be something to allow future generations would be able to do would be great. She said farming was a part of their culture and a fantastic thing to do. She asked the City Commission to consider the positive benefits and do the minor work to set up the regulations.

Commissioner Highberger said he understood that the importation of hedgehogs was banned and asked if anyone could confirm that.

King said the entire State of California was and they were in very few states.

Commissioner Highberger said if the State of Kansas does not consider it a major issue, then he would not either.

Commissioner Amyx asked if there was a covenant on the property that banned chickens and hedgehogs would that take precedence over what the City would allow.

Corliss said yes he believed it would.

Mayor Dever said they should clean up the regulation as it stood because there were people who may or may not be violating the law in some parts of the City. He asked what they could do to move forward with proactive language as opposed to banning it. He did not see any language that would allow it. He asked if the language was more geared toward prohibiting it.

Boecker said that was correct. As they indicated in the original information in cleaning up the language and in previous concerns, they had provided information on banning. What they wanted to get from the City Commission was if they wanted to look at allowing fowl and what regulations there might be necessary pertaining to the size of the flock, distance from other properties, and other regulations that occur in other communities.

Commissioner Amyx said he grew up adjacent to the City on the south part of town and every spring his parents would buy 100 chicks. It was his job along with his brothers to make sure they had the chickens raised to adequate size. He said if there was a ban in place now, they might have people violating the ban, but at the same time there was not a lot of clarification. He said he did not see a problem with chickens although he did see a concern with roosters. If someone was looking to have eggs, that was fine and the educational experience to young kids was fine. He said the questions Midge Grinstead brought up were important to consider. They needed to establish rules on how many someone could have. If someone wanted to have a couple of chickens, there was adequate space in the yard and a coop, it had to be taken care of and would be fine. He said he also did not see any concerns with hedgehogs.

Commissioner Highberger said this issue had come up a couple of times since he had been on the City Commission and thought it had been settled a few years ago. He had a discussion with the City Manager and the ordinance did not prohibit chickens, which might have been the intent of the ordinance. He said three of them on the City Commission voted for the new zoning code and did not recall giving the livestock question any real scrutiny during the process or have public discussion, so he thought it slipped under their noses without a lot of discussion. His preference would be to amend the zoning code to exempt from the definition of livestock any animal that was not prohibited by the Animal Control Ordinance, but if the majority of the City Commission would prefer some restrictions on ownership of fowl in the City limits, he thought that was reasonable. He suggested directing staff to work with local chicken owners and interested veterinarians to develop reasonable minimal regulations. This had been going on in the City for some time below the radar because it had not caused many problems. He did not want to place undue restrictions on what people could do on their property as long as it did not interfere with their neighbors. Some of the concerns that Grinstead raised were already under control from the Animal Control Ordinance or Noise Ordinance and would apply the same way to chickens as they would to dogs, cats or other animals. He also supported allowing hedgehogs.

Vice Mayor Chestnut said he agreed with Commissioner Highberger on hedgehogs. He said he agreed with Commissioner Highberger on the issue of chickens and would like to see some regulation in this area. He realized there had been discussion about some institutes and watch group, but certainly CDC and KDHE had some concerns in this area specifically with the pathogens that live fowl carry. Because of that, they needed to look at some regulation in density. For the most part, they had responsible citizens who were going to try to do the right thing. Just like domesticated pets, they had the vast majority that were good owners and had some issues they had to deal with. For the sake of the Humane Society in particular, they had to get pretty specific about what the definitions were just so they had a clear interpretation on

what they were trying to do. He said the definition of minimal regulation would be hammered out and appreciated the comments about rights, but quite honestly issues three, four and five they were going to consider going forward were land rights. The City regulated land rights and controlled them all the time. They tried to balance the public welfare and here there was a question of some public welfare as far as what could be dangerous. He thought it could be reasonably regulated by common sense regulation.

Commissioner Hack said this did not come to us because the City received a flood of complaints or concerns about banning it. She thought it was just cleaning up what regulations they had so there was clarity. She thought Commissioner Highberger stated that the best. She thought it was important to note how much work Judson King put into his presentation because he did his homework and research and worked on it for a long time. They were proud of him for stepping up and expressing his concerns. She said whatever they were going to include in their allowed animals, she would include hedgehogs. She said referring this to staff to clean some things up and get some issues ironed out.

Mayor Dever said as far as direction goes, he agreed with the other City Commissioners and in moving forward with specific rules only because there were some issues about how many, the quantity, the size, and there needed to be ground rules so that if there were complaints or bad neighbors, they needed to control somehow and force them to stop as what was perceived as a nuisance. He said if they just allowed it, it would become on the lines of a dog or cat and less definable. He said he would like to ban roosters for the obvious reasons. He did not think they went well with urban life and thought that his experience with them in that setting was that they were hard to control. He said if they could add language that would clarify how many they could have and get some feedback from the experts on the science part. He said the killing for food consumption needed to be addressed as well because that was important from a sanitary standpoint. He did not think any of the owners wanted to slaughter

their chickens, but it was possible someone might want to and they needed to have direction on that as well. (19)

Consider changes to the sidewalk snow and ice removal ordinance.

Jonathan Douglass, Assistant to the City Manager, presented the staff report. He said the memo on the agenda attempted to answer some questions raised during their last discussion on this issue. He said Version A required property owners to clear the sidewalks within 48 hours or be subject to a citation. The notice of violation was eliminated, meaning the total compliance time was reduced from 6 days currently to 2 days. The fine was also raised from \$20.00 to \$50.00, but there would be a court cost added to that fine, which was currently \$61.00, which would make the real fine \$111.00. The court cost was also added to the current \$20.00 fine if they prosecuted them. Version B was similar to the existing ordinance. Snow must be removed within 24 hours. If not, they mailed a notice of violation giving the property owners 3 days to comply and reduced from the current 5 days. If the property owner did not comply, they could ask the City Prosecutor to prosecute the case, as they did currently. The fine increased from \$20.00 to \$50.00. If the City Commission desired to adopt one of these versions of the ordinance, they might also consider providing direction as to whether they wanted staff to give any warnings as they rolled out the program and whether they wanted to send warning letters during the first snow storm or warning letters to every first time offender throughout the winter. They would do a few public education efforts and put a slide on Channel 25, send out letters, or do a utility billing message of some sort. Lisa Patterson, the Communications Manager, offered to assist them with that if they decided to do that. Neither one of the proposed ordinances addressed the circumstances where the City snow plow recovered a sidewalk that had already been cleared. He knew that was a concern that the City Commissioners and citizens have risen. He thought they would have to rely on inspectors to use good judgment as they were enforcing the ordinance and if they did cite someone, the court would also use their judgment to rule on that case.

Commissioner Amyx asked if someone paid to have their sidewalk cleaned and the City came by with one of their trucks and the snow and ice went back up on it, someone had to plea their case in front of the judge.

Douglass said if there was a citation issued. It may be the inspector did not issue a citation.

Commissioner Amyx asked whether either version had a notification requirement.

Douglass said Version A did not have any kind of notice of violation, but Version B did. Version B was pretty much identical to the current process but the notice of violation was for three days instead of five days, which was probably the shortest they could make it with a mailed notification.

Mayor Dever asked if there were other municipalities with a similar approach to the three day notification and if most sent notification in the mail.

Douglass said the cities they have looked at as models, like Madison, Wisconsin, they did not send any kind of notice at all. Others do it the same way the City of Lawrence did.

Mayor Dever asked how common these ordinances were in general.

Brian Jimenez, Codes Enforcement Manager, said they were more common in the northern parts and the east coast. It varied on how cities did it. Some gave notification and others gave 24 hours.

Corliss said a lot of times the difference between what was in the code and what they actually enforced. He talked to a number of managers and in some cases had code requirements that require sidewalks be shoveled within a certain period of time but did not have a response to enforcement, and was common in Kansas. As they moved up in latitude, they had a lot more interest in the issue.

Jimenez said Version A addressed the comments made by Vice Mayor Chestnut about why they went out twice and seemed not necessary. It seemed like a reasonable solution to the time period and City staff going out once and not a second time. With Version A, staff's time

commitment was cut in half because even with the current ordinance, they were still spending staff time with notification. They were not going back as the code dictated five days later to reevaluate.

Mayor Dever called for public comment.

Brian Wyatt, Lawrence, said his comments and opinions were his own and did not talk to his spouse about this. He said he was a lifelong Lawrence resident and this had been going on for 20 years. He always wanted to address some of the issues because he was out there in his business and saw a lot of different parts of the town and public. He said the question of what they were truly trying to do and if it was compliance as far as pedestrian safety or was it to fine people. He believed that the City was trying to do what was right. Pedestrian safety everyone talked about a lot and with more foot travel and bicycle travel, during the winter time in Kansas was hard to do. Some of the things he thought they could do were two part. It was the public and the City working together. Some people believed the sidewalks were the City's because they were in the City right-of-way. It was still the property owner's responsibility to take care of. Cities had right-of-way to do what was necessary, but it was still a property to maintain and take care of. On the same note, there were other ways they could do it. They worked strong with the neighborhood associations and in talking to them, he did not know if there was money that went toward the neighborhood associations from the City, but if they police and took care of their own neighborhood associations and work with the elderly and ill to address those that were unable to shovel sidewalks and get it done within the allotted time. It seemed to be a cat and mouse game to wait for the weather to change, especially in Kansas. He said in the concerns of the sidewalks that were covered by the City crews, it seemed to him that the Oread Neighborhood, 9<sup>th</sup> Street, the sidewalks were close and the question of whether they cleared the sidewalk or not because there were a lot of students. He wondered if the City crews could do the areas in the evening. He said they also might consider for the ones who did not want to clear their sidewalks to do what they do with the weed ordinance. The property owner would

get a notice and if they did nothing, the City would have contractors come out and clear the sidewalk and then put it on the property owner's tax roll. He said they had summertime temporary workers and for the people who could not shovel their sidewalk, such as the elderly or ill, they could apply to the CDBG staff to prove they were unable to shovel or those who could not do this, they could have temporary staff shovel their sidewalks. He said if they wanted to get compliance, they needed to take a look at different ways to get this done. He thought it would take a partnership between the City crews, the neighborhood associations and the neighbors. He said if they worked together they could get it done, but should not have an ordinance that did not do the job they wanted it to do.

Commissioner Hack said this has probably been an issue just about every winter she has been on the Commission. They have tried the good neighbor and tried working with neighborhood associations. They have been heavy with fines and notifications. They have not gotten it done to the extent they felt was important for the pedestrian public. The first option narrowed the time, increased the fine and they did not have the notification opportunity and double inspection, which was a poor use of their limited staff time. The concerns they had were making sure they had a way for fair notification and perhaps they did the first snowfall. Perhaps they should put a warning in utility bills the first shot through, but even that would not hit everyone. She did not know other than going door to door to notify people. It was clear when the City recovered a sidewalk and was not a natural new fallen snow. It was very obvious when that happened, even if the homeowner had not shoveled it. That was the tricky part. She asked if it had not been shoveled at all and then the City plowed over it, was the person getting a free ride when others were not. She liked the idea of certain areas being priority streets, but would agree with staff that it needed to happen with a lot of public process. It was December and was not going to take place before winter and giving the ordinance a chance to work its way through. She supported Version A with notification.

Commissioner Highberger said unfortunately there was no good answer here. He said for the safety of the walking public they needed to do something. Their goal was not to issue fines. He said with the court costs added he thought \$20.00 was sufficient. He thought the \$50.00 fine was overkill. Madison, Wisconsin kept coming up as an example and having spent wintertime in Madison, what they did worked. He agreed with Commissioner Hack and supported moving forward with Version A with \$20 plus court costs as the fine.

Commissioner Amyx said from the fine standpoint, \$50.00 plus court costs with the fine being \$111.00 would get his attention. He thought that was a little high. If they kept the fine as the same amount and the court costs were there, that was part of the fine process. He said he was concerned about placing the burden on staff sending people out to make a determination of whether or not the City created a problem for someone. Once the ice was done, if it snowed on top of it again, there was no way to get the second snow off. He said unless they were going to look at a priority street talked about in the staff memo, they were not going to do that on December 2<sup>nd</sup>. He thought they were a little bit late for that. At the Senior Center there was a volunteer program that helped with low income elderly and understood they got quite a few volunteers that helped people who could not take care of their sidewalks. He said there needed to be some type of notification process because one of the things they had was a lot of people who did not realize there was an ordinance until the City hit them with a citation the first time. He said version A probably makes some sense. He said they could make an ordinance, but if someone was not going to move the snow, it was not going to be moved.

Vice Mayor Chestnut said he agreed with Version A and he agreed with the fine at \$20 plus court costs. The reason he supported version A was because he did not think a second inspection and all the other process made a difference in getting people to comply. They should do everything they could as a community to help the people who did not have the ability to comply.

Mayor Dever said he was not sure what to say except this was a community effort. He supported Version A if there was a need to change the rule then he was in favor of moving forward with something that was a longer time or more notification because it was not working. He was more concerned that if they created this rule, how they could help other people take care of the sidewalks or other areas where people could not clear the snow. They were still looking for people to volunteer to help those in need. He said if they were going to change the rule at all, Version A moved them further along. He thought the larger fine would allow them to put money aside to pay others to help them achieve the goal of clean sidewalks. He was more likely to have less regulation on this and hoped the community effort would be better. He said people out of town and the absentee landlords concern him, but hoped that would encourage them to have a contract with someone to remove the snow if it fell.

Moved by Hack, seconded by Highberger, to direct staff to prepare an ordinance containing Version A of the staff memo with leaving the fine at \$20 plus court costs. Motion carried 4-1 (Amyx voted no). (20)

Consider approving Comprehensive Plan Amendment, CPA-2008-9, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 and Farmer's Turnpike Plan and consider adopting on first reading, joint City Ordinance No. 8358/County Resolution No. \_\_\_\_\_, amending Horizon 2020, Chapter 14 Specific Plans by approving and incorporating by reference, CPA-2008-9.

Scott McCullough, Planning/Development Services Director, presented the staff report. He said there were two sector plans on the agenda that represented many hours of hard work between staff, the Planning Commission, stakeholders and community members who took time out of their schedules to comment on both sector plans. He said he would do a general recap of sector planning. He showed the document staff used that had the planning efforts they had available. He said sector plans act as future plans for a more specific area. They guide development. It anticipates development over a long period of time. The plan identified future land uses and outlined goals and policies and transitions and buffers between uses. They were careful to inform residents that it did not annex property or change zoning upon adoption. It

acted as a first layer of planning in an area that had not developed yet. On top of the sector plan came in transportation plans, revising utility and infrastructure plans, provided a foundation for other agencies to do their planning, such as Fire/Medical and school districts. They used the sector plans as a general plan to do that work and there were several steps they used to process these plans.

He showed an animation of annexation from the 1940s until now. It put into context of why they planned seemingly rural areas. Generally, what they would find was the city had grown by a margin of 7.5 times larger in the last seven decades. They would see the current road systems in place, Clinton Lake, and other items that were not present in 1940. They put them as a constant on the map as a reference. In 1940, the City was four square miles and had a population of 14,390. The largest boom period, decade wise, was between 1990 and 2000 when an additional 14,490 residents came to Lawrence. Today the City was over 30 square miles and had a population of just over 90,000. They had a wide range of types of neighborhoods and within most neighborhoods they had a varied mix of uses in the neighborhoods. He said studies have shown that cities grow as infrastructure was built.

He showed what they currently had on the books for area plans. They had the Northwest Area Plan, the 6<sup>th</sup> and K-10 Nodal Plan. When he arrived in 2007, staff was completing a revised Southern Development Plan and spent several years completing the Southeast Area Plan and recently they did the Farmland Redevelopment Plan. This left the K-10 and Farmer's Turnpike Plan and the West of K-10 Plan. They were the areas to the west and northwest area. In the coming months and a couple of years, they were going to look at the North Lawrence/Grant Township area and ultimately the area south of Wakarusa River, when ultimately the new water reclamation facility was built, they needed to do planning for that area. Each of the plans have presented very unique sets of issues and opportunities to consider with the potential of future development. Lawrence was unique in that they had 360 degrees of opportunity so the challenge typically was where they would put resources and concentrate

infrastructure, even though demand could be great on all sides. They placed an awful lot of resources and effort in the existing City and downtown and the core neighborhoods. It was important they got out in front of development when they could.

He said specifically, the K-10 and Farmer's Turnpike Plan entailed approximately 4,000 acres. Portions were currently in the City, including the recently 155 acres annexed. The majority of it was generally unincorporated area. One of the implementation steps would be for the urban growth area. He said the turnpike was built in the 1950s and the interchange of K-10 and I-70 was completed in 1996. It was their third interchange and the only one for Lecompton, which was an important historic center for the region. Based on Comprehensive Plan 2020 goals and policies, there was a need to foster the job creation and industrial space in the community. There was also a need for large tract industrial space. Because of the highway system and because some of the slope and other elements and benefits to the land, it posed good opportunity for uses that were industrial and employment center based.

He said the plan started in February 2008 and completed drafts by the spring. They held a public meeting in which 75 people attended. They ultimately went to the Planning Commission two times with draft plans. 117 people on the list serve signed up to be a part of the plan and received notice of the plan. The Planning Commission directed staff to begin a series of workshops with community representatives. They held three workshops over the course of the late summer. That led to two additional Planning Commission meetings, the last one ended up in November and in November the Planning Commission recommended approval of the draft plan before the City Commission, on a vote of 7-3. They held four Planning Commission meetings, one large public meeting, three small workshop meetings, which were held under state statutes. This was a contentious planning effort and happened with the request for annexation and rezoning of 155 acres they talked about earlier. They felt that the Planning Commission slowed the process down, asked staff to meet with the community and hold those series of workshops. He said the plan itself was pretty typical and standard for their

sector plans. There was an introduction section, an existing conditions section and recommendations section. Key issues in this plan was it supported tourism and the Freedom Frontier National Heritage Area and was the first plan document that welcomed this attribute to the area, especially as the commercial center at the interchange of K-10 and I-70 as Farmer's Turnpike took hold. It supported real character in its design, even though urban densities were designated for the area. It supported the protection of environmentally sensitive lands and encouraged industrial development. They had a number of industrial spots designated as employment centers and this was another chance to provide an opportunity for a state and interstate highway system.

He said when they build sector plan maps, they start with base maps that might include physical elements such as streams and the highway system. Then they brought in what the Comprehensive Plan already had designated for commercial centers, whether they be neighborhood or community commercial centers. They looked at slopes and topography of an area and then the long range transportation plan elements. They did this to build concept of what they thought was benefiting of community's goals as outlined in Horizon 2020. They had some existing development in the southern portion of the planning area and topography south of the highway. There was also residential development scattered throughout the northern portion. Their plan for urbanization, the first draft had a lot of industrial and employment center uses to take advantage of the highway system. They then provided high density residential and mixed uses as transitions. It originally included a transition area because the transition between industrial and lower density residential to the north was concerning. The next draft the Planning Commission saw was basically the same, but without the transition area. The Planning Commission found that the development code did enough to do transition between those types of uses. They started reallocating some of the employment and office use to the eastern leg to but up against industrial uses along the road. They maintained neighborhood commercial centers within the planning area.

He showed the plan staff proposed to the Planning Commission after the third and final workshop with the neighbors. After Planning Commission discussion and input, they revised this area to go to strictly industrial use as opposed to office use. They then allocated additional industrial use location. They specifically called it a neighborhood commercial area at the southwest corner of the intersection and pulled out a neighborhood commercial center on the north side of Farmer's Turnpike Road.

He showed the plan that the Planning Commission recommended on a 7-3 vote. This was created at the last workshop they held. It included all of the commercial and industrial office employment and added a little more and designated that a very low density residential designation based on the transfer of rights, which was a tool they did not have at their disposal currently. The key implementation issues if adopted would be to reevaluate and update the urban growth area, adopt industrial design guidelines which staff was currently working on, include the planning area in a future utility master planning updates, and amend T2030 to accommodate streets in the area. They recommended the City Commission adopt the Planning Commission's recommendation and adopt on first reading Ordinance No. 8357.

Mayor Dever called for public comment.

Marguerite Ermeling said she received a phone call that day from Ron Schneider who represented the general neighborhood association out there. He indicated he placed a phone call to the Mayor on their behalf. There were a number of people who were not aware of the meeting about this item this evening. She believed the notification went out late Wednesday. She knew there was a suggestion that it could be that early by one commissioner, but there was nothing that was followed up with that when she contacted staff. There was not enough time to contact and let everyone know because so many people were out of town. She requested deferral of this item for at least one week because interested persons were not notified this item would be on this evening's agenda. She understood that after talking to Gwen Klingenberg they

hoped to hear from the City because they had some discussion on that issue themselves. They did not have contact between their own organizations because of the holiday weekend.

Beth Johnson, Lawrence Chamber of Commerce Vice President Economic Development, said she wanted to compliment McCullough and his staff for working with the community, the Planning Commission and now the City Commission to bring forward a plan that was worthy of City Commission consideration and approval. They have been talking about this for several months now and had been plenty of opportunity for community comment at different points. There were a number of Planning Commission meetings that this had been talked about and a number of community meetings where they were public knowledge and invited. She thought they were at a point to get recommendations and approval from the City Commission at this point so they could move forward in putting this into the works. One of the things they continually talked about from the Chamber of Commerce standpoint was the need for additional industrial land. It was in the plan not only at the K-10/I-70 Lecompton exit, but also at the Kasold area as well, which would be a continuation of what they currently had in that industrial area. From her standpoint from the companies they heard from, they could never have an optimum number, but there had to be a balance between the residential and industrial and commercial needs for the growing community. She said she went on a site visit and talked to a company that was interested in the 28 acre tract, which was their last one. If they sold that tract to that company, it was the last site on I-70 that had utilities and ready to go as zoned in the City limits. They had the 155 acre tract they were working with to make sure it was development ready to go forward. It was part of this plan and one of the first things a company was going to ask was who the neighbors were. She said it would be nice to have a plan to show them what the future land uses were in that area.

Jane Eldredge, Barber Emerson, said she represented several property owners in the sector plan. She urged the City Commission to move forward with the adoption of the plan that staff and the Planning Commission recommended. That plan represented hours of work, lots of

contention and it was indeed a compromise. The people she represented would have preferred to see more industrial in the plan as it first had been presented in May 2008. As part of the process and working through with the Planning Commission and through those workshops, much of the industrial was reduced in size and some industrial was moved to the eastern end. She said it was a compromise that worked for most of the people involved and most importantly worked for the entire community. She did not think there was anything to be gained by delay of this plan. She asked the City Commission to move forward and adopt it.

Lynn Ward, area resident, said she did not know of this item until Dave Ross called to let her know about it. She asked the City Commission to postpone this item until they could get their information together. Normally they had a lot of people present from the neighborhood and did not tonight. This was a very important item to the neighbors and to them it was their future.

Dave Ross, President Scenic Riverview Community Association, requested a deferral for one week. Many of the neighbors did not know that this item would be on tonight's agenda and had prior commitments. Although he said he was not as fully prepared as he would like to be, he could explain why his Association supported Option 2. Option 2 gave 704 acres of office and research. Option 1 gave the City 671 acres. There was more acreage available to market in Option 2. He asked if he should continue or if he should continue to stumble along.

Mayor Dever said if Ross had information available, he should provide it because he did not know what the other City Commissioners would want to do.

Ross said when they worked on this it was obvious that one section was important, so they did not try to make any changes to that. It was already annexed into the City and there was a need for a large tract of industrial. They tried to address the area with Mr. Bob Meier from Lecompton. He was very concerned about the appearance of that as the entrance to Lecompton, the Freedom Frontier Foundation and the movement that was going on there. Meier was unable to attend tonight but was passionate about how it looked and what it might be. He said Meier told him on the phone that the paper on the Freedom Frontier would be released

in February and be sent to the National Bureau of Parks for their review and come back. Depending on how that came out, he was concerned the City would want to be careful with what they would do with the red area that might have an impact on the future of that designation. He said the western parking lot of the K-Mart Distribution Center butted up to the Kasold area. There were a few homes in the area and felt the need was apparent that industrial needed to be put in place quickly. The infrastructure was not available for one part but one piece had infrastructure already available to it. They felt as a compromise they would try to use the available infrastructure to allow them to quickly have something available to sell. He found it interesting that when they brought that up at the meeting, there was negative on the other side that it would not work. He did not get an explanation of why it would not work. They moved the neighborhood commercial center down, back to where it was on a previous map. There was a house that the owner was preparing to put on the National Register of Historic Places and he wondered how it would work out with a commercial center adjacent to it. He said office retail adjacent to the interstate would look much better than industrial. It would also provide for well paying jobs. One of the planning commissioners said he did not want to see the industrial and was more concerned about moving the heavier industrial away from the vision of people traveling up and down I-70.

He said a comment was made earlier about why one block was not made heavy industrial, and made a point in that area there were 7 or 8 homes already. It meant that someone would have to buy seven people out and put this back together to give the large acreage needed. He said there was another comment made that by putting heavy industrial in one area would create more traffic on Farmer's Turnpike. He said as a neighbor coming on the road since the west exit opened, the truck traffic had dramatically reduced. Before when the exit was closed, that was the only way to get off and get into the K-Mart Distribution Center, Lawrence Paper Company and the areas in there. He said they would find that the people using the area, the traffic would feed off of the interstate exit instead of Farmer's Turnpike.

Commissioner Amyx said he was not opposed to deferring this for one week.

Mayor Dever said Mr. Schneider contacted him and asked to put this item on hold. They had already notified the people who received notification to come and talk and those same people would be put out if they did not talk about it this evening. He said he was not sure if the conversation was about Option 1 or Option 2 or about whether or not they wanted to move forward tonight. If it was about moving forward, he told Mr. Schneider they would discuss and take comment from the people here and probably not take action unless the other Commissioners felt it necessary to do so. He already indicated to Mr. Schneider that it was only fair to give more time to give people the opportunity to come to the meeting and speak to this item. He said if they were going to talk about the two plans and they felt Option 1 was the best plan, he did not know what they should do next because clearly there were people going to be speaking that Option 2 was the best plan and staff recommended Option 1. It was a matter if they wanted to go with the professional staff or some sort of combination.

Commissioner Highberger said having gone through both plans they had in front of them, he was not sure he understood all of the details of both to act tonight. He said his preference would be to have a study session on these options so he could understand the rationale for the decisions a little better and address details because there were a lot of details that were pretty critical.

Mayor Dever said there was a lot of information and there were a lot of minute changes that have occurred. He was not sure if they could address all of them in a two hour study session. There were realistic questions and realistic options they had to put forth and decide. He thought the professional staff had their opinions and the neighbors had their opinions. They had to come up with what was in the best interest of everyone. He did not think they were prepared to move forward today, but wanted to get all the information they could because the more they got, the more they could think about and move forward with making the right decision.

Eldredge compared the Options 1 and 2 being considered. She said McCullough did an excellent job in the reason to have a sector plan was to provide a guide for urban development. It was not to preserve rural development but use some of the rural character in the residential areas. In the City of Lawrence, for instance, they had designations of the housing types they have provided. They have provided low density residential, medium density and high density. It was true throughout the City. The designations were set out in the comprehensive plan and on page 2-4 of the plan that was presented, they were recapped. They could see that very low density residential was a term they used in county zoning classifications, not appropriate for City zoning classifications. One of the things they would notice that was most obvious in the difference between the two plans was that the only residential north of I-70 on option 2 was very low residential county use. In the county that was a 3 acre minimum for one site. That became important when they were doing utility planning in particular and related to Option 1 where north of I-70 they had low density residential, medium density residential, and high density residential. There was traditional planning, step up or down, densities of use. Those densities provided around this terrific access for the highest density uses that come in producing property and that were what allowed them to bring utilities into the sites. If they looked at something like Option 2, in order to bring utilities to the sites, they had to cross the land where they had extremely low density residential and were rural in character for septic tanks and rural water uses. It made the provision of utilities to the other site much more expensive than if they were using the option 1 site. It was one of the differences that had the economic impact of the ability to develop and attract businesses because they were going to want to know what it would cost.

She said the other difference that was important was the change of the neighborhood commercial site. Option 2 had it in an area with very low density residential, abutting up to the Northwest Area Plan which also had very low residential density. That was a problem if they actually wanted a neighborhood commercial site. Commercial users looked at the number of rooftops in an area before they provided it. They have identified neighborhood commercial

districts as ones that served neighborhoods. They had an office research neighborhood, medium density neighborhood, industrial neighborhood, and staff recommended that the neighborhood commercial district be on the north side to accommodate traffic on the arterial road. It was neighborhood commercial, but would be more convenient for people coming east bound to turn right to go to the southern one and people west bound to turn right and go to the northern one.

She said the other kinds of differences that were important were the integration of industrial and office research with its own neighborhood commercial center and had low density residential that was surrounded by areas that would remain open because of flood plain and topography. They had high density residential on the other side of the street that also had a buffer from the commercial area. It would not create as an attractive work/live kind of campus when they had only industrial and office residential together. It was the combination of the living and working environment that staff recommended that was consistent with their ideas of smart code, mixed uses and making it possible for people in all economic situations to live close to or near their work environments. They had no other I-70 access that was as good as this one.

She said in terms of process, McCullough identified the huge number of meetings. There have been large compromises made, particularly those advocates for industrial. This was workable and there was a lot to be said for the idea of having this whole thing between the Farmer's Turnpike and I-70 industrial. The idea they actually had a lot of single family housing in there was not likely. The two roads were pretty close together. After all the hearings they had, they had plenty of input. They were aware that delay had been a pretty constant character in this drama as it had unfolded. The lack of an adopted sector plan was one of the allegations and lawsuits that have been filed by these neighbors who were the ones who continued to ask for the delay in the sector plan and then turn around and say in lawsuits that they did not have an adopted sector plan. She hoped that if the City Commission continued this, they not extend that continuance for more than a week so this could get handled in a reasonable time and get to

the county commissioners in a reasonable time because it was something that would need to be approved by both bodies. She said the property owners in the sector plan by and large support this. They were satisfied with the plan and staff had done a very good job not only in terms of planning, but also in mediating.

Commissioner Hack asked Beth Johnson to address Mr. Ross's comments about the concerns of the cluster on the east side.

Johnson said in her opinion, if they put industrial at that east bookend corner that traffic was going to go down Farmer's Turnpike and not go around Berry Plastics, behind Hallmark and go to that exit. It was going to take the straight shot down and increase the traffic that would go down Farmer's Turnpike. With the exit they experienced that along there and what that would be like, and knew the traffic would go that way. She said in green were the flood plain areas, and that could cause some concerns because of the topography and sloping in those areas that would make those tracts very small and not large tracts, which was what they were looking for, and would be more available.

Commissioner Hack asked about the I-70 issue. She asked if that was a concern as well to clustering it more towards the west than the east.

Johnson said absolutely for that access. She agreed they could drive around the state and nation and find industrial that was not very good looking, which was why they were working with industrial design guidelines and different things. The worst thing to sell was an industrial park that was ugly. She did not want to do that because there were other areas in the community that were nice and showed very well. She hoped that was what they would get for this area and having something that was an eyesore was not their intentions and hoped that they knew they were planning a nice area and park for future development.

Lynn Ward, property owner in the sector plan area, said at 6:30 p.m., she and her husband put together a quick speech. She said the K-10 and Farmer's Turnpike plan involved 4,075 acres and affected several hundred families. The planning for this began in February

2008 with the first public hearing in May and 10 months later the plan was being voted on. The City's own documents stated that this was very long term planning and asked why the City was in such a hurry to make final decisions on an important issue that affected so much acreage and so many people. She said they lived on 80 acres of the office research future zoning, which was approximately  $\frac{1}{4}$  of the space on the west end of the zoning plan dedicated to office research. They were against having the City Commission making decisions regarding their future as the City Commission had no responsibility to rural residents, since they did not vote for them. The City Commission could make decisions they did not agree with, and there was no accountability on their part towards the rural residents. The City stated they wanted to protect environmentally sensitive areas and prime agricultural land in Douglas County. They had 14 acres of virgin prairie on their land, which meant that it had never been plowed and part of their land had been classified by the USDA as prime agricultural. She asked why other properties, like those by the airport, were being protected and not theirs. They were unaware of any studies done by the City to identify environmentally sensitive or prime agricultural land and the K-10 and Farmer's Turnpike future zoning area as such a study was performed, they were not contacted.

Stan Unruh, property owner in the sector plan area, said he hoped the City Commission could defer this and give them a little bit more time to make their case. He thought Option 2 would be a lot better for the land owners already in the area and much less disruptive. Their land was residential now and should remain residential. It should help their property values. The whole point of this was to get more industrial land and either one of the plans gave them industrial. He said Option 2 would give them a little bit more and hoped the City would consider that option.

Marguerite Ermeling said she knew some of the thoughts that Bonnie Johnson was hoping to bring to this and hopefully she could in the future before things were done. In discussions with her, she presented to all of them that one of the reasons why Option 2 could

work and the issue about traffic moving down Farmer's Turnpike was less of a problem when they did not have the density. It was something she felt became a moot point. If it was more of a rural setting, industrial could be there because it would not have a conflict problem with traffic. She also recalled her saying that the concept of the infrastructure had been hot all along. They knew there was infrastructure to the east and the area in purple was not the flood plain area; it was beyond that and north. Where they recommended putting the purples were not in the flood plain. In addition to that, it was realistic to think they had the infrastructure over to the east and the logic of progression of bringing anything to the other area to the west and north of I-70 would go along 6<sup>th</sup> Street or the K-10 corridor. That would begin to furnish the basis on where they could afford to bring continuing infrastructure north. They could get that and the idea they were going to only get one into the other was to come across that area was not the only option to consider and it would be costly to do it that way. There were other ways to accomplish it.

Mayor Dever said he wanted to make sure everyone knew that he left a voicemail for Mr. Schneider that they would consider not moving forward with any vote on this matter for one week. He said if that was okay with everyone here, they could defer it for one week and thought it was reasonable because of the Thanksgiving holiday. He wanted to make sure he did not make a commitment without talking with everyone first.

Vice Mayor Chestnut said he supported that, but thought it would be good to hear from everyone regarding where they were at right now. He said the Planning Commission meeting minutes were not posted until the agenda was on. He said he went through the minutes three or four times and still had a lot of questions. He said he would like to ask some questions about both options so next week staff would be prepared to answer them. That might help focus the issues. It was clear that the Planning Commission was all over the place on this deal and opposed it for different reasons. Some wanted more industrial. He agreed that it did not make sense to have a very low density residential in that big of a chunk if they were talking about the idea of a sector plan. He wanted to know if an area was developable or not and needed clarity

on that. If they wanted to maximize infrastructure, it seemed like they were not doing that in Option 1 on the east side. If they were going to have that industrial, they should have it in some size. The sliver between Farmer's Turnpike and I-70 was industrial and in Option 1 that was adjacent and down. It seemed to be a narrow strip and did not know how practical that was for heavy and industrial development between the Farmer's Turnpike and I-70. He said that was a sliver and not a chunk of land. He wanted an opportunity to speak to some of the Planning Commissioners based on some of the comments that were made in there. The minutes only gave you a gist of what was going on and there was a lot of ambiguity in a number of their comments and wanted an opportunity to speak to more stakeholders and get more depth in this. He said a week was fine and no one was around because of the Thanksgiving holiday.

Commissioner Hack asked if they would like to know of the area south of the Farmer's Turnpike that was cattycorner from the 155 acres.

Vice Mayor Chestnut said yes.

Commissioner Hack said the minutes indicate Mr. McCullough saying that those would accommodate East Hills Business Park size lots. She asked what the general size lot was for one of those.

Johnson said 12 acres.

Commissioner Hack asked how many acres that was.

Vice Mayor Chestnut said there was acreage and there was depth, too.

McCullough said they looked at the depth and it was approximately the size of the depth of an East Hills lot. They understood that it was not going to be part of the 88 – 100 acre parcel size the Chamber of Commerce often desired, but offered some variety and could put a substantial size building in there.

Mayor Dever said he thought the topography and access were going to be more severe limitations than the size and knowing whether or not they were capable of being developed.

Commissioner Amyx asked if the sector plan included the Lawrence Energy Center.

McCullough said no, it did not. He said they had to make some decisions about boundaries, and it basically went to the City limits on that side.

Commissioner Amyx asked if the energy center would be prime industrial property and a sector plan that was going to look at a broad range of development in a specific corridor, that area to the east with industrial to the south should be included. As annexation should occur in the future, the area that included the energy center and to the west should be part of that.

McCullough said the area to the west was the energy center and supported the employment center to the west. He said they had discussions with the Planning Commission at the time and whether it should focus on that on the east, west or entire corridor. The Planning Commission directed staff that if they were going to do it, they should look at the entire corridor.

Commissioner Amyx asked when the Farmer's Turnpike Plan and K-10 area was brought into play and they were looking at boundaries and the extension of utilities from the east through that entire area, why did they not do the plan different and use K-10 instead of Farmer's Turnpike. It would be easier to get utilities from the south to the north.

McCullough said one of the things they anticipated in updating utility master plans, they would get a sense on how utilities would be raised in the area, what the costs were and water sheds. The first layer of planning helped utilities understand designations and get numbers for their master planning. They wanted to plan for a utility branch and felt like there was a lot of value in this type of planning to get a layer of decisions made about the area and knowing this could take many decades and several updates as the plan evolved.

Commissioner Amyx said there was a lot of work done on both options. In talking to individuals who owned property to the south in the West 6<sup>th</sup> Street area and the distances to run utilities to the north, it seemed to him the simplest way to run utilities was up the K-10 side. He was surprised they did not include the Lawrence Energy Center and area north of Farmer's Turnpike because it seemed like a natural extension of area there.

Commissioner Highberger said he already stated his preference for having a study session on both sector plans because of the amount of detail and compromises made during the process so he could understand it. If they wanted to delay a week, he would support that. One of his major concerns with this plan was timing and would like a little bit more explanation of why they were doing urban density planning outside an urban growth area. A lot of the area in contention was outside the urban growth area and did not make sense to him to have urban planning for very low density residential.

Mayor Dever said the plans were almost identical and his assessment was there was not much difference. They were talking about the definition of low density residential and very low density residential. He thought there were good arguments from both sides and as they planned they did not want to use terminology or definitions that did not exist in the City Code. Very low density residential was not something he was in favor of using, which would steer him away from Option 2 but perhaps there was more compromise they could come up with after hearing more comment and given more time to review the plans. He thought they were really close and hated to throw a bunch of time, meetings and assessments on stuff and the area in question was outside the urban growth area.

Moved by Hack, seconded by Chestnut, to defer for one week consideration of the Comprehensive Plan Amendment (CPA-2008-9), amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the K-10 & Farmer's Turnpike Plan and adopt on first reading, Ordinance No. 8358/County Resolution No. \_\_\_\_, amending Horizon 2020, Chapter 14 Specific Plans by approving and incorporating by reference (CPA-2008-9). Motion carried unanimously. (21)

Consider approving Comprehensive Plan Amendment CPA-2008-6, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the West of K-10 Plan and consider adopting on first reading, Joint City Ordinance No. 8340/County Resolution No. \_\_\_\_\_, by approving and incorporating by reference, CPA-2008-6.

Dan Warner, Planner, presented the staff report. He said if they looked at the planning area, they could see Highway 40, or 6<sup>th</sup> Street, K-10 Highway, Lake Alvarado, and Clinton Lake, which was south of the planning area. The area at issue was roughly 2,000 acres and roughly 100 property owners in the area.

He said they began this process in early 2008 and the first draft of the plan was released on June 5<sup>th</sup>. They noticed approximately 150 stakeholders and property owners in the neighborhood via letters and emails. They had their first meeting on June 26<sup>th</sup> and had approximately 70 people attend that meeting. The second draft was released on July 21<sup>st</sup> and they noticed both the draft and the next meeting date and time. The second public meeting was held on August 7<sup>th</sup> and approximately 40 people attended that meeting. They released the 3<sup>rd</sup> draft on August 27<sup>th</sup> and sent out letters and e-mails to stakeholders and property owners. They noticed the Planning Commission meeting date and time as well. They had a large number of comments received on this plan and quite a few people were plugged into the process. They also met separately with individual property owners and groups of property owners as requested.

The Planning Commission reviewed the third draft on September 24, 2008. Staff asked the Planning Commission to provide staff with direction concerning the future land use map. Following that meeting, staff produced a fourth draft that was based on Planning Commission direction. The primary issues between the 3<sup>rd</sup> and 4<sup>th</sup> draft revolved around the future land use in the southeast corner of the planning area.

He said some of the major plan policies that were worth mentioning included 15<sup>th</sup> Street and K-10, the future improvements to that intersection, and no density development would be allowed until the financing plan and commitment to construct the improvements was in place. It

was not applicable to properties north of 6<sup>th</sup> Street and half a mile south of 6<sup>th</sup> Street. They were advocating to put a 50 foot extraordinary set back on Highway 40. They would try to keep buildings out of that future right-of-way to keep acquisition costs down. Connectivity was also a big part of this plan. He said there were also protections for Clinton Lake, both emphasizing settlement control during development and advocating a buffer ordinance to protect natural systems. The traditional neighborhood design and Smart Code was an option in this development.

He showed the future land use that was approved by the Planning Commission on October 20<sup>th</sup>. There was an employment outlet on 6<sup>th</sup> and K-10 and were the same uses as the nodal plan. It had already been approved and changed a little bit. They also had opportunities for employment along 6<sup>th</sup> Street or residential. They tried to build density along the highways. He said the issues regarding the future land use and the plan between the 3<sup>rd</sup> and 4<sup>th</sup> draft were focused on this area, the southeast corner of the planning area. There were two options for option 3. This looked a little different because they added some land uses that were either approved or had gone through approval. The planning boundaries were added to apply context to the area in how it was starting to develop. Option 1 had high density transitioning to medium, transitioning to low. This was a traditional urban land use pattern from high to medium. It went well going north for transitions and east to west.

He showed land use option 2. He said this option was responding to what property owners in the area wanted. There was very low density, high density, and a medium density. It did not transition quite as well from a land use standpoint, but could use landscaping and buffers to transition as well. They asked the Planning Commission to help them out with this. They had two groups of property owners who had very different ideas about the future so staff was struggling in trying to work that out. They came back with this option after the 3<sup>rd</sup> meeting. It was what the Planning Commission approved. It transitioned well. It was a difficult situation and it was nice to receive comments.

He said staff's recommendation was to adopt the plan and approve the ordinance.

Mayor Dever asked about the very low density residential. He thought they had talked about not using that.

Scott McCullough, Planning and Development Services Director, said he was going to clarify that. That was a land use designation in the City's Comprehensive Plan. It was a one acre density. It was also a county type of designation, but was used very sparingly, particularly in their sector plans and City type of planning efforts. If they had 100 acres, they would get 100 houses.

Warner said they had a zoning district in the code that accommodated that.

Commissioner Highberger asked if the area that was the very low density had very steep slopes.

Warner said he believed it started to fall back at a point.

Commissioner Highberger asked if the traditional neighborhood design was an option under the plan.

Warner said yes. The work that PlaceMakers did became a model for the area and they were saying that if the SmartCode was adopted, it was appropriate to do TND in the planning area.

Commissioner Highberger asked if it addressed the southeast corner.

Warner said it did not. It did not necessarily mean they could not do TND down there, though.

Mayor Dever asked from a relative standpoint, could Warner address the difference between the planning they were doing for this area west of K-10 relative to the area north of I-70. He said it looked to him as similar distances away from current development and asked Warner to clarify how this was different to what they were doing north of I-70.

Warner said this area was already designated as an area of employment. With the 6<sup>th</sup> and SLT nodal plan, these uses were already designated. They had infrastructure that although

was not there yet, was a bit closer. The school district owned property in that area, not far away to a major lake attraction to the south. He said the urban growth area was within the Lawrence School District. They could stand at 1500 Road and K-10 and see the City pretty clearly.

Mayor Dever asked why they took so long to do this.

Warner said they had been waiting a little while to get to this point. As it set along the work program, that was how they got to it.

Mayor Dever said there were discussions about the City moving real fast with the one to the north. He said this was all new and first major plans. They were hoping they ended up with some activity here. He wanted to get a perspective of how long it took and why it took so long.

Warner said they had completed the nodal plan. They had done utility master planning for this area, so this was the next step.

McCullough said the efforts were in the south and southeast area for a while. Whether or not it was a growth area in terms of processing a sector plan, it was not always relevant because it was the same typical process where they had time where they did a lot of analysis and data collecting where they held meetings with the public. Two to four Planning Commission meetings take several months to get completed and then some time in between Planning Commission and City Commission, then there was more time with the County Commissions. Each one of those was a new opportunity to bring all the elements and issues of the approval authority. A lot of the upfront and time they spent with the community and individual meetings with a number of the residents took a lot of time to hash out the issues, redraft the plans, post them for a time period to allow for additional public comment for the Planning Commission's behalf. These two plans were taking 11 months now.

Mayor Dever said the timeline between the two plans, there was only a difference between a few months.

McCullough said he thought this was pretty typical and because of the complexity of the issues, they were asking for input from residents who had to learn about the process, learn what

a sector plan was, and get an understanding that the City was looking to drastically change their lifestyle in some ways and that simply took some time to adjust to and the City to educate them on urban issues they did not have a need to know about right now because they were in the County.

Corliss said over the years, they occasionally got property owners who were interested in knowing what the development opportunities were going to be in this area. They had a number of values and statements in the Comprehensive Plan that spoke to that potential for development. He said what Warner had done was help solidify what they envisioned out there and asking significant questions about infrastructure. One of the pressing ones he wanted to make sure was reflected in the document was that they made it clear they were not going to anticipate urban density development west of K-10 along 1500 Road until they had improved access onto K-10 in the form of an interchange. They were going to talk about how that would be funded because it had been with them over a decade as a major issue when the road was opened and they did not have the intersection built. Before they had urban density development west of K-10, they needed to make sure they had a solid area or the interchange in place to proceed with.

Mayor Dever called for public comment.

Lee Rader, area resident, said she sent a letter late last night she hoped the Commission received. She read the letter, "As a homeowner west of K-10 draft plan area, I appreciate the opportunity to offer comment on the current draft. I have been actively involved in response to the plan since the City's Planning Office initial invitation to public participation. My property consists of two and three quarter acres located in the southeast corner of the plan, actually just to the east of K-10. I was thrilled when six years ago I had the opportunity to buy land in this unique little pocket of Lawrence, which had maintained a lovely rural character, while, yet, not far from town. The design and building of a home for the property was an intensely personal process for me involving two years. I attribute the gifts of land and home as

gifts from God, which I am deeply grateful. My concerns with the west of K-10 draft plan are as follows:

1. The argument of neighbors who were leaving and selling their properties was that they were pushed out by development at their backdoor. Therefore, they must leave and receive the highest dollar value possible for their properties. They have steadily requested that their properties be designated for the highest density possible. By making this request, they are in effect doing to the next neighbor what was done to them. Because of their efforts, their properties along East 902 Road were designated as high density or 16 units per acre. The property directly across from me was designated as low density or 6 units per acre. Currently, as you see my designation is very low density; one unit per acre. If the current plan was supported, this meant that apartments would fill the acreage to the south and west of me. A particular travesty, I believe, is that the acreage of my neighbors, Drs. Phil and Mary Ann Hoffman, would relate directly to high density apartments behind them and low density apartments to their north side if this plan was enacted. They have written letters which were heard by the Planning Commission. It is my opinion that this unique, rural-like pocket in Lawrence should be allowed to remain just that and that single family homes, very low density of one unit per acre, should be the order of the day. At the very most, low density could be indicated where high density is currently indicated. There was plenty of high density to the west of K-10, actually commercial and high. To the south of our neighborhood along Clinton Parkway, which is already being currently further developed; it was in the process of being developed.

2. I continue to be highly concerned about safety issues at the intersection of K-10 and the highway on the east side and North 1500 Road, which has no above grade entry onto K-10 highway and no funding for this in the foreseeable future. All of the traffic from apartments in our neighborhood would funnel into this intersection. City planners say that an entry created onto Clinton Parkway would ease the situation and that nothing would be approved that was not

in keeping with the traffic study. Remind you, we recently suffered three traffic fatalities along the K-10 bypass within a two week period.

3. As the property owner of the lowest elevation in the indicated area, a creek diagonals through my property that heads down to Old Yankee Tank. I am highly concerned about the flow of storm water onto my property if the density of living units is dramatically increased above me. Long time residents on the higher ground indicate that a limestone ledge exists about 7 feet underground and that the general soil drainage is poor. My property already has a drainage way and cutting through it was very full when we have ample rain. In my opinion, the City had not thought through storm water issues in proposing significantly higher density for the higher ground. They were really talking about a relatively small area here and trying to pack a lot into that area. A plan draft would decrease the value of my property and likely increase my property taxes. I invite you to take a drive out to see us. Our area is too small to cram in the very density designations currently in the draft. Apartments should not be permitted to come in across from, or next to, homes on 3 – 10 acre lots. Whatever happened to the ideas of respect for beauty and a long established neighborhood? This neighborhood should continue to be indicated for single family homes. Let development occur to the south and across the highway from us where these designations have already been approved. I believe we will attract more people to our town if we honor these values and commit ourselves to a variety of lifestyle options to our town. Thank you for your time at this late hour.”

Laura Stevenson, a resident of the area, said when she and her husband moved into this area, the neighborhood was an established neighborhood. Even the new homes that were built within the last three years have maintained the character of rural lots. She stressed to the City Commission that this was a developed neighborhood. The part that was being designated as high density was very nice homes on one acre lots. It was not a blighted place they would want to wipe out and build apartment buildings. They were very nice homes and she noticed that one was listed for sale for \$400,000. The neighbors would like to sell this property and get

the higher density. One of her major concerns was the transition. They had high density up against low density. There was no transition, no road, or natural buffer. They were adjoining lots that would back up. It was supposed to allow for transitions, so that was one thing that was not here. She appreciated the planning staff and their work in trying to provide some transitions, but as they mentioned, this was a very small area and there was not enough room for those transitions. She thought it made more sense for them to maintain the current neighborhood feel it was, which was a low density area.

She said she wanted to reiterate the issue of traffic. One of the issues mentioned was that the development in one area would not happen until the 1500 Road interchange allowed for better access to K-10. Right now to get onto K-10 or get out of their neighborhood, they were making a left turn at a highway where people were coming at you at 65 mph. It helped get them awake in the morning, but they did not feel safe. She said there was a restriction on the development on the west side contingent on that interchange opening up. It had not been stated that way for the east side. In terms of traffic and access, the area was not a very good area in terms of easy access.

She said Clinton Lake was one of the jewels of Lawrence and they wanted to maintain it. It was a pretty area with a lot of trees and landscape. They wanted to keep that consistent with the notion of the area of Clinton Parkway. She did not think putting a lot of high density apartments out there was consistent.

Jeannie Bronoski, area resident, said she could understand everyone's concern about who had recently moved out to their area. It was a very beautiful area and one of the few areas they would find in Douglas County that looked out over Clinton Lake. There were 11 households on 902 Road and all of them have tried in the past collectively to get a buyer to buy them out. When they did that, they quickly discovered that anyone who was interested in buying that parcel of land wanted it rezoned and they told the residents that it would be better if it was rezoned before they tried to resell it. All of the planning had not gone on this year, but for

several years. When they asked about the planning and why this was different than the other, planning staff, as good as they were, had not been there for a long time. She lived there for 35 years and stood at this table numerous times talking about development in their area. The development to the west of the boat yard was developed. Recently it had been redeveloped. The person who developed that recently put major money into that. She did not think that development would get redeveloped for many years. They asked for high density on their side because as a group they looked at it as an area to be developed. They all have enjoyed living there, but as it had been pointed out, things have been done to them. There was a development right behind them. They were considered out in the county, they had enough acreage and had enough fence.

She said traffic was discussed. 902 Road was a gravel road and their only exit was to go out 902 Road to 1500 Road. At one point in time there was a road that ran behind them which was blocked off because they did not want traffic back there. The development behind her currently had 26 four-plexes, which would be 104 living units. It was scheduled for 35 homes and the villas. There was going to be 174 units behind her. Their only exit was the roundabout onto Clinton Parkway. The initial planning years ago discussed a road that would go the south end, go north and give them another way out. She thought that traffic flow was something that had to be addressed, but they were living there and if they walked out to the back of their acre, there was a sign posted that said, "Future City Street Extension." The neighbors all regrouped and decided to try again to act together collectively as a group because they could not stay there. The neighbor on the far south was a crop farmer. He was coming in and out with farm machinery and went out at 3 or 4 a.m. so he could get out. She ran a cattle operation and had cattle trailers occasionally. It was not conducive to live there anymore. They felt that now was the time to move, but also when they left they wanted to make sure what they left behind was developed. There was a 9 acre piece in front of them which was too small of a

piece of land for the owner to build anything on because you had to have 10 acres in the county and he had 9.

She said those were some of their concerns and the neighbors supported this plan. They would really support having that instead of high density be commercial. The best place in Douglas County if they wanted to put a show place, a high rise hotel or condominium, they had one of the few houses that had a 2<sup>nd</sup> floor on that road and out of the south window, the view of Clinton Lake was breathtaking. It was one of the very few places where they had a view like that and it was park-like. She encouraged the City Commission to adopt this, but if they wanted to think about it, think about zoning it commercial to put something grand out there. She said right now, the people who lived there, were not enjoying it.

Kristel Lewis, area resident, said she was present on behalf of her family and neighbors on the 902 Road neighborhoods. She lived in the middle of the area they were talking about. Their 902 Road Neighborhood joined together three years ago to look at possibly selling as a group as there was talk of a development coming towards them. There was a question of why this had not taken so long, but actually had met with the previous Planning Director at one of their homes to find out what they needed to do as a group to possibly move on. There was no plan in place and it was not necessarily one of the things to look at in the near future, but something to look at down the line. They were in limbo and had been in limbo for many years now of not knowing what was to go on. Finally this came along and they had been very excited about working through this process and enjoyed the meetings with the Planning staff. Since the process started with the West of K-10 Plan, they have sent letters as a group in each step of this process. Initially they had asked for commercial and/or high density because they had been told that the highest density was what would get developers' attention and that was their intention whenever that time was right. With the location of this property at the corner of a major intersection of Lawrence and view of Clinton Lake, it was a prime development area. They would like the highest zoning possible, so the developers could come up with ideas on how to

use this property, which was 25 plus acres and allow for Lawrence to continue to grow west as it already hit property lines. They asked for the properties to be zoned as one density, as it currently was in the plan, so it would be easier for them to sell as a group unless there was a potential for a mix of commercial and high density. There was concern of buffer space to the neighbors north and east of them, and the way development had reached them it was not a matter of if it would continue but when it would continue. There was not a buffer between many of the properties and the new development going on right now, but from their properties to the neighbors to the north and east of them, there were some natural buffers already. There were tree lines that would create a division and one tree line was on the Hoffman's property. The majority of the homes were secluded from any current or potential high density that would be going on. If they were developed, it would also provide another access out as they could connect to current development, since it had to do with traffic concerns. It could help alleviate traffic from the K-10/1500 Road because people could now exit to Clinton Parkway. If there was more concern about traffic heading to 1500 Road unless something was done with it, there was the potential of blocking off a north entrance and people could only go to the south.

She showed a picture to show an idea of what was out in the area. There was a lot of open land right now. She said as they drove down the driveways to the houses that were closer to Clinton Parkway, they could see the newer houses. She showed a picture of farm equipment and where the trees were on the property line near the new houses that were being built. She also showed a picture to the entrance of her property to show the tree line that would separate the properties.

She said they have compromised in the past and was willing to settle with the high density instead of commercial. They were the same people at the meetings and would not hear anything different and these were the same arguments. She did not think anything would change. She understood the point of concern with west of K-10, the interchange, and potential

problems. Their corner was different and development was not going to happen unless approved.

Commissioner Hack said this plan like other plans was a series of compromises. She said in so doing, they were going to have people that were happy and some that were not happy. It was the balance and that balance was difficult to achieve. She thought this fourth draft was the best that could be done in this particular situation. She thought it was responsible planning with the high density and then the lower density, and then the very low density coming from the road. There would be transitions; that was good planning and could not have low density right at that intersection. Commercial may be something to consider, but not now. She thought the plan, as approved by the Planning Commission, was the way to go.

Commissioner Highberger said he had a few reservations. One was the complexity of it. He wished he had a little bit more background on the decisions that remained in the developing plan. Two, when the PlaceMakers were here he had a discussion with one of the members of the group who was convinced if they used Smart Growth correctly, they could keep their residential and commercial growth on the east side of K-10 and I-70 for the next 20 years. They were not there yet, and thought they needed a plan since this was in the urban growth area. Their job was not to maximize the return for property owners. That was not their consideration when they were doing planning. He thought the plan did a pretty good job in addressing issues. The area in the southeast corner was a reasonable place for high density because it was adjacent to a major highway and some existing fairly high density development. The plan did a fairly good job of transitioning. He was reluctant to do any planning for low density residential, but this was one place in preserving some in the City limits made sense. He said he would like to have more discussion about the details and thought there was a mention in the plan for a design for 6<sup>th</sup> Street in the future to be a typical five lane arterial and thought they could do better and was not sure that was critical to address right now. He said despite reservations would support the plan.

Vice Mayor Chestnut said he agreed with Commissioner Highberger. It was always tough when you started to see growth surround rural areas. There were adverse impacts, but agreed that they did not have the responsibility to maximize people's property value, but had a responsibility to maximize their infrastructure investment, and this was a situation where ideally they definitely wanted to make sure they were maximizing that infrastructure investment and having a significant amount of very low density residential did not make sense for their investment in that. It was a compromise and he agreed that there was not going to be a lot of activity on the other side of K-10 until they did the interchange, but staff did a good job in figuring out how that might lay out over time. He said he would continue to work toward the improvements on Highway 40, and it was responsible to start planning to make sure they had the right-of-way to do what was needed to be done. It was a tight corridor there and if they did not start to think about what they wanted to do, they were going to face a lot of challenges there. He said hopefully they could get the TND design in there because it was the place that was always identified as that. He said he appreciated work of staff.

Commissioner Amyx said from the time the nodal plan was adopted at the corner of Highway 40 and K-10, one of the things that happened was it put a lot of pressure on what the development west of K-10 should look like. Staff, the Planning Commission and the neighbors have done a very good job. He said he always imagined the corner would have been a super commercial residential development kind of thing. The access issues took care of that. The recommendation from the Planning Commission for high density was probably a good trade off. Anytime they did one of these plans, one thing he always thought of was if this was the way they wanted to see the development in the future because obviously they would pass the baton to someone who was going to have to develop according to the land use rules established. One of the things they were pretty fortunate about was the staff recommendations and the Planning Commission on this. He said this plan works and thought it would work for the future.

Mayor Dever thanked everyone for providing their comments. This was a tough corner and seemed to be the only contentious point at this plan. He said his first impression was that it seemed reasonable to be high density at this location and looking at the topography, the low density neighborhood in that area was protected. The only thing that could occur was large high rise buildings could occur and that would not create visual separation. He said that area, just like every neighborhood, it seemed like they built higher density residential developments at the corners of the busiest intersections to provide the buffering. It made the most sense when you were trying to get affordable housing, diversity in the neighborhood, and maximize property values for the greater good of the community. This area, if not built up, would not naturally go that area. The Lake Point Drive area was a perfect example. He said he would be in favor of this plan.

Moved by Hack, seconded by Amyx, to approve the Comprehensive Plan Amendment CPA-2008-6, amending Horizon 2020, Chapter 14 Specific Plans, to add a reference to and incorporate the West of K-10 Plan and consider adopting on first reading, Joint City Ordinance No. 8340/County Resolution No. \_\_\_\_\_, by approving and incorporating by reference, CPA-2008-6. Motion carried unanimously.

#### Receive draft 2009 Legislative Policy Statement.

David Corliss, City Manager introduced the item. He said this followed a lot of the same policy statements they have had in previous statement documents. It highlighted the importance of a new statewide transportation plan. They had an initial discussion about some of the economic decisions they were facing and what the state would have to face. This was the City Commission's first look at this. They could receive the commission's comments and directions on that. The Climate Protection Task Force provided some language in regards to the environmental responses towards the end of the document. He was recommending they support the Kansas Water Authority's recommendation to the legislature for increase in

municipal water fees contingent upon other fees in the industry. They were after gambling funding and other things that were likely not to be there. In the coming weeks, the national press was pointing out the new administration was looking at having another economic stimulus package that was likely to include infrastructure projects. They would want to participate in that and may want to talk about the best way to present their projects or requests from that process. He said they responded to a lot of legislation that came up, and in this document tried to hit the highlights and the oldies of protecting annexation, tax lids, and the things that seemed to be perennial issues.

Commissioner Hack said one thing they did a nice job on was a balance of asking for things and letting the legislatures know the things the City was doing to make things better in the community. One of the things they did when they went to Washington, D.C. was they not only asked for things but explained the good care they were taking of the community. She said she could not think of anything else they would ask for or ask to be protected from.

She said there had been the visit in January, but maybe they needed to set up additional meetings with their legislators. They had people from Lawrence and Douglas County who have assumed leadership positions in the legislature. She said maybe just doing this in January gave them a feel for it, but maybe they should continue to touch base and meet with legislators in a group a couple of times during the session.

Corliss said in the past there had been some time where the Mayor, Vice Mayor, and other commissioners would go over and have an early morning breakfast. He said that was a way to touch base. He thought it was a good idea to follow through.

Moved by Hack, seconded by Amyx, to receive the draft 2009 Legislative Policy Statement. Motion carried unanimously.

(23)

Consider adopting on first reading Ordinance No. 8337, enacting eligibility requirements and qualifications for members of the governing body.

David Corliss, City Manager, introduced the item. He said he thought this item was fairly straight forward and there might be a common law argument that you have to be a resident of the City to serve on the governing body. Staff's recommendation was to adopt this ordinance making it clear you have to be a resident of the City to be on the governing body.

Mayor Dever called for public comment.

There was no public comment.

Moved by Amyx, seconded by Hack, to adopt on first reading Ordinance No. 8337, enacting eligibility requirements and qualifications for members of the governing body. Motion carried unanimously. (24)

Receive preliminary staff report on primary election issue.

David Corliss, City Manager, introduced the item. He said there was a change in state law last year regarding the number of candidates needed for a primary election and it was subject to a charter ordinance. Charter ordinances require four votes of this body, published twice, and became effective 60 days after that, which got them into the deadline for filing for the 2009 City Commission election.

Toni Wheeler, Director of Legal Services, said it was subject to a charter ordinance and did not think they would be able to meet those deadlines for the upcoming primary election if they were to have one in January because of the 60 day requirement.

Vice Mayor Chestnut said that in the last ten City Commission elections, it looked like there were only three that would have fallen under the ten. There was a difference between the Primary and the General Elections, but in 2005 and 2007, the results of the primary and general were similar.

Commissioner Hack asked if the primary narrowed it to 9 or 6 candidates for the General.

Wheeler said 9 candidates.

Commissioner Highberger said it read, "No primary election of city officers shall be held unless by holding such primary two or more persons will be eliminated as candidates for office."

Wheeler said they had a specific discussion about that language and the reviser referred her to the Secretary of State's Office because the Secretary of State's Office was the one who pushed for this bill. When she called the Secretary of State's Office, they said it was the County Election Officers who pushed for this legislation. No one wanted to take credit for this legislation because they said it was passed late in the session in a conference committee and did not undergo the scrutiny that bills normally do. In the Secretary of State's Office, Mr. Brad Bryant told her that he was recommending that cities disregard that sentence quoted by Commissioner Highberger and go with the intent of the bill, which was more than three times the amount of offices. They intended to try to correct it in the next session, because it created a lot of confusion. It was never the intent to require the two.

Corliss said they may get to participate with this issue in the 2009 legislative session and would not impact the City elections next year. If there was a bill on this, they would try to monitor it closely and asking the City Commission for their views on it.

Commissioner Highberger said he appreciated the information and thought the primary could be important and there were occasions where the person who was a great candidate makes it number five or six in the primary, and later people realize that that person was one of the better candidates. He said at this point they will do it how the state law intended it.

Mayor Dever called for public comment.

There was no public comment.

The Commission received the preliminary staff report on primary election issue. (25)

PUBLIC COMMENT:

FUTURE AGENDA ITEMS:

12/09/08

Consent Agenda:

· Adopt Resolution No. \_\_\_\_\_, declaring the boundaries of the City of Lawrence, Douglas County, Kansas. This is an annual state law

requirement.

Regular Agenda:

- Conduct public hearing to discuss the condition of the dilapidated structure at 1207 E. 13<sup>th</sup> Street and to consider declaring the structure unsafe and ordering its repair or removal within a specified period of time.
- Receive staff report on economic development issues and policies.
- Consider changes recommended by the Eco2 Commission to be adopted into the Eco2 Plan for Douglas County.
- Status update on Baldwin Woods Open Space Project.
- Receive staff report regarding panhandling.
- Consider approving revisions to Downtown Design Guidelines. (PC Item 6; approved 8-0 on 10/20/08)
- ACTION: Approve revisions to Downtown Design Guidelines, if appropriate.
- Consider approval of 45 mph design speed for 31<sup>st</sup> Street Concept Study.

ACTION: Approve 45 mph design speed for 31<sup>st</sup> Street Concept Study, if appropriate.

12/16/08

- Receive staff report on the structure at 617 W. 4<sup>th</sup> Street.
- Consider the following items related to Lawrence SmartCode:
  - a) Consider approval of CPA-2007-6, a Comprehensive Plan Amendment to Horizon 2020 by creating Chapter 15 – Place Making to ensure proper comprehensive plan language is in place for the proposed Lawrence SmartCode in the City of Lawrence. (PC Item 13; approved 8-0 on 5/21/08)  
  
ACTION: Approve CPA-2007-6, an amendment to Horizon 2020 by creating Chapter 15 - Place Making, if appropriate.
  - b) Consider approval of CPA-2007-7, a Comprehensive Plan Amendment to Horizon 2020, Chapter 14 Specific Plans, to add a reference to the Lawrence SmartCode Infill Plan. (PC Item 14; approved 8-0 on 5/21/08)  
  
ACTION: Approve CPA-2007-7, an amendment to Horizon 2020, Chapter 14 Specific Plans, if appropriate.
  - c) Consider adopting Text Amendment TA-11-24-07 regarding the Lawrence SmartCode and, Pursuant to the provisions of K.S.A. Chapter 12, Article

7, enacting a new Chapter 21 of the Code of the City of Lawrence, Kansas, establishing comprehensive zoning regulations and other land use regulations. The "Lawrence SmartCode" is an optional development code that is parallel to the City's existing zoning and subdivision regulations and affects all property within the corporate limits of the City of Lawrence, Kansas. Copies of the "Lawrence SmartCode" are available for review at the Office of the Lawrence-Douglas County Planning Department, City Hall, 6 E. 6th Street, Lawrence, Kansas. The "Lawrence SmartCode" is also available at [www.lawrenceplanning.org](http://www.lawrenceplanning.org). Adopt Ordinance No. 8286 on first reading regarding TA-11-24-07 for the Lawrence SmartCode. (PC Item 15; approved 8-0 on 5/21/08)

**ACTION:** Approve TA-11-24-07 regarding the Lawrence SmartCode and adopt Ordinance No. 8286, if appropriate.

12/30/08 City Commission Meeting is at 9:00 a.m. and is planned to be short.

01/06/09 Consider the following items related to the rezoning of the property located at the southwest corner of Clinton Parkway and Crossgate Drive:

- a) Consider approval of CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive as a potential location for a new Neighborhood Commercial Center and adopt on first reading, Ordinance No. 8299, for Comprehensive Plan Amendment (CPA-2008-10) for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive as a potential location for a new Neighborhood Commercial Center. (PC Item 2; approved 5-4 on 7/21/08)

**ACTION:** Approve CPA-2008-10, a Comprehensive Plan Amendment for Horizon 2020 Chapter 6, Commercial Land Use, to include the southwest corner of Clinton Parkway and Crossgate Drive as a potential location for a new Neighborhood Commercial Center, and adopt on first reading, Ordinance No. 8299, if appropriate

- b) Consider approving a request to rezone a tract of land, (Z-05-12A-08) approximately 3.324 acres from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive. Submitted by Mission River LLC, for Inverness Park Limited Partnership, property owner of record and adopt on first reading, Ordinance No. 8303, rezoning approximately 3.324 acres (Z-05-12A-08) from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive. (PC Item 3A; approved 5-4 on 7/21/08)

**ACTION:** Approve the rezoning of approximately 3.324 acres (Z-05-12A-08) from RSO (Single-Dwelling Residential-Office) to CN2 (Neighborhood Shopping Center), located on the southwest corner of Clinton Parkway and Crossgate Drive, and adopt on

first reading, Ordinance No. 8303, if appropriate.

TBD

- Approve Text Amendment TA-06-12-08, to Section 20-810 of the Subdivision Regulations to clarify the natural resources and environmentally sensitive areas that are to be protected or preserved. Initiated by County Commission June 23, 2008. Adopt Ordinance No. 8317 on first reading for TA-06-12-08, to Section 20-810 of the Subdivision Regulations. (PC Item 3; approved 7-0 on 8/25/08)
- Consider approving Text Amendment TA-12-27-07, revisions to multiple sections of the City Development Code to revise the Protection Standards for Environmentally Sensitive Areas and to provide more precise definitions. TA-12-27-07 with revisions to Sections 20-1101, 20-1109 & 20-1701 PC; item 18; approved 7-1-1 on 7/23/08 meeting. TA-12-27-07 with revisions to Sections 20-701 and 20-702 to maintain consistency throughout the Code; PC item 9; approved 7-0 on 9/24/08)

**ACTION:** Approve Text Amendment TA-12-27-07, revisions to Sections 20-701, 20-702, 20-1101, 20-1109 and 20-1701 of the City Development Code to revise Protection Standards for Environmentally Sensitive Areas and provide more precise definitions, if appropriate.

- Adopt on first reading, [Ordinance No. 8300](#), incorporating by reference, a Text Amendment (TA-04-03-08), to Chapter 20 of the Lawrence City Code (Land Development Code) to define and permit various homeless facilities. (Text Amendment approved by City Commission on 10/14/08).
- Consider approving revised CPA-2004-02, a Comprehensive Plan Amendment to Horizon 2020, Chapter 7: Industrial and Employment Related Land Use and consider adopting on first reading, revised [Joint City Ordinance No. 8283/County Resolution No. \\_\\_\\_\\_\\_](#), for Comprehensive Plan Amendment (CPA-2004-02) to Horizon 2020, Chapter 7. (Tabled from the 10/21/08 CC meeting, BoCC Approved 3-0 11/12/08, PC Approved 7-2 5/21/08)

#### COMMISSION ITEMS:

Moved by Chestnut, seconded by Hack, to adjourn at 11:55 p.m. Motion carried unanimously.

APPROVED:

ATTEST:

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Michael H. Dever, Mayor

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Frank S. Reeb, City Clerk

CITY COMMISSION MEETING OF DECEMBER 2, 2008

1. Bid Date – Dec. 16, 2008 for Chemical Feed Pumps & Chemical Storage Tanks.
2. Construction Contract to Midland Contractor's Inc., for \$237,000 for Kaw Water Treatment Plant Disinfection Conversion.
3. Bids for water treatment chemicals for 2009.
4. Contract, Pepsi-Cola General Bottlers, Inc. for fountain & vending machine operations.
5. Purchase of Dell EqualLogic storage area network from Eagle Software, Inc.
6. Ordinance No. 8359 – 1<sup>st</sup> Read, rezone 25.97 acres from PCD-2 to PCD-[Bauer Farm].
7. Ordinance No. 8347 – 2<sup>nd</sup> & Final Read, levying transit sales taxes.
8. Ordinance No. 8348 – 2<sup>nd</sup> & Final Read, levying infrastructure sales tax.
9. Ordinance No. 8349 – 2<sup>nd</sup> & Final Read, establishing Sales Tax Audit Committee.
10. Ordinance No. 8352 – 2<sup>nd</sup> & Final Read, max assessments at 6<sup>th</sup> St & Wakarusa Dr.
11. Ordinance No. 8351 – 2<sup>nd</sup> & Final Read, max assessments at Stoneridge Dr & Kelly Dr.
12. Ordinance No. 8356 – 1<sup>st</sup> Read, Special Use Permit, Westside Plaza, 4811 Bob Billings Pkwy.
13. Joint City Ordinance No. 8357/County Resolution No. \_\_\_\_ - 1<sup>st</sup> Read, amending Ch 6 – Commercial Land Use – Inner Neighborhood Commercial Center.
14. Ordinance No. 8353 – 1<sup>st</sup> Read, outdoor dining at Teapouro, 712 Massachusetts St.
15. Site Plan for Global Café, 820 Massachusetts St, & sidewalk dining & hospitality license.
16. Engineering Services Agreement-Bartlett & West, sanitary sewer & water improvements to Bauer Brook Estates.
17. City Manager's Report.
18. New Bid for former Farmland Nitrogen Facility.
19. Live fowl & domesticated hedgehogs.
20. Sidewalk snow & ice removal ordinance.
21. Comprehensive Plan Amendment – Horizon 2020, Ch14, Specific Plans.
22. Comprehensive Plan Amendment – Horizon 2020, Ch 14, Specific Plans.
23. Draft 2009 Legislative Policy Statement.

24. Ordinance No. 8337 – 1<sup>st</sup> Read, enacting eligibility requirements & qualifications for members of governing body.
25. Preliminary staff report on primary election issue.